EXHIBIT H

UNITED STATES DISTRICT COURT	
EASTERN DISTRICT OF NEW YORK	
	X
JENNIFER HOUGH,	71

Case No. 21-cv-04568-ENV-JRC

Plaintiff,

-- against--

NOTICE OF MOTION

ONIKA TANYA MARAJ, AKA ("NICKI MARAJ" and KENNETH PETTY, AKA ("ZOO"),

Defendants.
 X

SIRS:

PLEASE TAKE NOTICE that, after the expiration of the time period prescribed by Fed. R. Civ. P. 11(c)(2), Defendant Onika Tanya Maraj ("Defendant") will move this Court for an Order granting sanctions against Plaintiff Jennifer Hough's ("Plaintiff") counsel, Tyrone A. Blackburn, Esq. and Steven Gordon, Esq., because documents they have filed or served (pending bundling) in this case—specifically, Doc. Nos. 25-13 and 25-15, and Plaintiff's November 8, 2021 Memorandum of Law in Opposition to Defendant Kenneth Petty's Motion to Vacate the Certificate of Default—contain statements and accusations which (a) are being presented for the "improper purpose" of falsely impugning Defendant and her counsel's integrity and honesty, (b) are not "warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law or for establishing new law," and (c) do not have "evidentiary support." Fed. R. Civ. P. 11(b)(1)-(3).

The grounds for this motion are set forth in the accompanying draft (but executed)

Declaration of Judd Burstein.

Dated: Westport, Connecticut November 10, 2021

Yours, etc.,

JUDD BURSTEIN, P.C.

By:

Judd Burstein (JB9585) 260 Madison Avenue, 15th Floor New York, New York 10016

Tel.: (212) 974-2400 Fax: (212) 974-2944 jburstein@burlaw.com

Attorneys for Defendant Onika Tanya Maraj

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
JENNIFER HOUGH,
Plaintiff,

-- against--

Docket No. 21-cv-04568-ENV-JRC

DECLARATION OF JUDD BURSTEIN

ONIKA TANYA MARAJ, AKA ("NICKI MARAJ" and KENNETH PETTY, AKA ("ZOO").

Defendant.

JUDD BURSTEIN declares under penalty of perjury pursuant to 28 U.S.C. § 1746, that the following is true and correct.

- 1. I am the sole shareholder of Judd Burstein, P.C., attorneys for Defendant Onika Tanya Maraj ("Defendant").
- 2. I submit this Declaration in support of Defendant's motion, pursuant to Fed. R. Civ. P. 11, seeking sanctions for opposing counsel's gratuitous and utterly false accusations that Defendant and I have purposefully lied to or intentionally sought to mislead the Court and, in the process, committed crimes.

THE OFFENDING STATEMENTS VS. THE TRUTH

- 3. Opposing counsel have made a number of outlandish and false accusations in this case.
- 4. **First**, in a particularly ludicrous and egregious attack upon me, Plaintiff Jennifer Hough's ("Plaintiff") November 8, 2021 Memorandum of Law in Opposition to Defendant Kenneth Petty's ("Mr. Petty") Motion to Vacate the Default ("Pl. Opp. MOL") states:

Defendant Petty and Defendant Maraj are challenging whether service was proper. Yet, as described above, the service was proper. Thus, the truthfulness of their Declarations is at issue. Mr. Burstein also has a reason to be untruthful

because his failure to properly advise Defendant Maraj and Defendant Petty about the deadline to answer, or to move on the amended complaint could (and should) subject him to liability for **malpractice**.

(Id., at 25) (Emphasis in Original)

- 5. Putting aside the fact that it is entirely unprofessional to accuse a fellow attorney of lying without any proof, the accusation makes no sense. How could Mr. Petty have a malpractice claim against me when I never represented him? How could Defendant have a malpractice claim against me for supposedly failing to advise her about anything before I was retained? In essence, Plaintiff's counsel argues that I may be (am) lying (about what is unclear) because I am concerned that, during my one conversation with Defendant before I was retained and before the time to answer or move against the Complaint expired, I may not have "properly advised" her about these deadlines. Any responsible lawyer with even a modicum of good sense would research the law before making such a serious accusation. Had Mr. Blackburn and Mr. Gordon done so, they would have quickly learned that any such malpractice claim would be entirely frivolous. See, e.g., Makhoul v. Watt, Tieder, Hoffar & Fitzgerald, LLP, 2014 U.S. Dist. LEXIS 32239, at *18 (E.D.N.Y. 2014); Uehigashi v. Kanamori, 161 F. Supp. 2d 221, 225-27 (S.D.N.Y. 2001); Heine v. Colton, Hartnick, Yamin & Sheresky, 786 F. Supp. 360, 366-67 (S.D.N.Y. 1992).
- 6. **Second**, on October 28, 2021, Steven Gordon submitted his October 27, 2021 Declaration in support of Plaintiff's motion for a default judgment against Mr. Petty. (Doc. No.

I note that some of the arguments in this Declaration are more appropriate for a memorandum of law. In the event that Plaintiff's counsel persists in making these frivolous arguments, they will be included in a memorandum of law when Defendant's sanctions motion is filed. I have made these legal arguments in this Declaration solely as a matter of convenience to give Plaintiff's counsel appropriate notice of the reasons why sanctions are warranted.

25-13) In that Declaration, at Paragraphs 5-6 thereof, he wrote:

On October 22, 2021, I engaged in email correspondence with Defendant Maraj's counsel Mr. Judd Burstein in an attempt to reach a resolution on a briefing schedule for his pending motion [Dkt. No. 17]. In the email correspondence, I discussed petitioning the Court for a Traverse Hearing based upon Mr. Burstein's baseless claim that my co-counsel and I are lying about serving Defendant Petty.... Not so coincidentally, three days later, counsel for Defendant Petty, Mr. Steven D. Isser. filed a notice of appearance.

Upon information and belief, based on their mutual affiliation with the Law Offices of Jay Goldberg, Mr. Burstein and Mr. Isser are colleagues and friends. Upon information and belief, they are colluding together to defend this action.

- 7. Similarly, at page 17, n.9 of Pl. Opp. MOL, Plaintiff's counsel writes: "It is clear that the Defendants are acting in concert to frivolously present to the Court that they were not properly served. Defendant Maraj also appears to be complicit in Defendant Petty's aforementioned perjury[.]" In light of Mr. Gordon's October 27, 2021 Declaration, this too is a sanctionable attack upon my honesty and integrity.
 - 8. These accusations are false and/or frivolous for a host of reasons:
 - a. The charge that I reached out to Mr. Isser only after receiving the first of Mr. Gordon's October 22, 2021 emails to me in the email chain annexed as Exhibit B to Mr. Gordon's October 27, 2021 Declaration (Doc. No. 25-15) concerning the issue of a traverse hearing, is wholly unprofessional and irresponsible speculation based upon inferences drawn from non-existent facts.
 - (i) Annexed hereto as Exhibit A is a print-out of a log of all calls with Mr.

 Isser on my office RingCentral telephone system for the period September 20, 2021 through October 20, 2021. This log also includes all calls to and from my cell phone because they are routed through my RingCentral

- system. All calls unrelated to my discussions with Mr. Isser are fully redacted, and the calls with Mr. Isser are partially redacted to hide his cell phone number.²
- (ii) The log shows that, after leaving him a message at 2:50 p.m., I first spoke to Mr. Isser about the case for 3 minutes at 2:50 p.m. on October 19, 2021;
- (iii) Exhibit B hereto shows that, about 15 minutes after our call, at 3:09 p.m., I sent Mr. Isser an email attaching copies of filings in this case;
- (iv) I then had two short calls with Mr. Isser later that same day (Exhibit A hereto);
- (v) Commencing 4:06 p.m. the next day, October 20, 2021, I spoke to Mr. Isser for approximately 12 minutes to provide him with some background on the case (*Id.*);
- (vi) As stated in Mr. Isser's October 27, 2021 Declaration in support of Mr. Petty's motion to vacate, at Paragraph 8 thereof, Mr. Petty thereafter retained him on the evening of October 20, 2021 *i.e.*, after I spoke to Mr. Isser; and
- (vii) The suggestion that I contacted Mr. Isser only after Mr. Gordon's October 22, 2021 emails is therefore entirely spurious, and the clear implication that Mr. Isser and I are colluding to mislead or defraud the Court is sanctionable.

4

I represent as an officer of the Court that the unredacted calls shown on Exhibit A hereto are calls to and from Mr. Isser's cell phone.

- b. I have never claimed that Mr. Blackburn or Mr. Gordon have been "lying about serving Defendant Petty." To be more specific:
 - (i) My client's October 14, 2021 Declaration submitted in support of her motion for leave to file a late letter requesting a pre-motion conference (Doc. No. 17-5) neither stated nor suggested that Mr. Blackburn was lying;
 - (ii) The memorandum of law which I filed in support of that motion merely recounted the substance of Defendant's Declaration, and did not even raise the possibility that Mr. Blackburn was lying about service;
 - (iii) The draft letter requesting a pre-motion conference annexed as Exhibit A to my October 15, 2021 Declaration in support of the motion (Doc. No. 17-2) also referenced only the substance of Defendant's Declaration, and did not even raise the possibility that Mr. Blackburn was lying about service;
 - (iv) In my October 19, 2021 letter to the Court (Doc. No. 21), I contended only that Plaintiff's application for a Certificate of Default was deficient under Local Rule 55.1 because Mr. Blackburn had failed to submit an affidavit that was sufficient under the Rule. However, I never suggested nor intimated that he was lying about the Return of Service he had filed with the Clerk.
 - (v) The email chain annexed as Exhibit B to Mr. Gordon's October 27, 2021 Declaration (Doc. No. 25-15) concerning the issue of a traverse hearing

similarly did not remotely suggest that either Mr. Gordon or Mr. Blackburn had been lying about service of process. Again, I merely stated that Mr. Blackburn's Affidavit had been inadequate under Local Rule 55.1 and, further, that (a) I did not "want to litigate by email," and (b) "I am not quite sure why you are both continuing to make legal arguments when this is a procedural issue or why you need my consent for a traverse hearing. If you are entitled to one, the Court will order it, perhaps on my consent after I review the law" (*Id.*, at 1);

- (vi) If Plaintiff's counsel had merely undertaken some basic internet research such as a Lexis search of my reported cases (Exhibit C hereto), they would have seen that I never had an "affiliation" with the Law Offices of Jay Goldberg. Rather, I worked for Gerald L. Shargel as an associate and then partner from 1982 (when I was admitted to the Bar) to July 31, 1984, and I then commenced a solo private practice as Judd Burstein, P.C. in 1984 (which at certain times was a partner in Burstein & Fass and Burstein & McPherson). With the exception of also serving in an Of Counsel capacity to the firm of Burns, Summit, Rovins and Feldesman in 1984 and 1985, I have never been affiliated with any other firm.
- (vii) Although Mr. Goldberg and I worked together on many cases over the years, we either represented different clients or I was always separately retained by any client we jointly represented. Moreover, a Lexis or Westlaw search of the reported cases in which we both appeared as

counsel (Exhibit D hereto) reveals that, commencing in 2002, Mr. Goldberg and I opposed each other in the case of *Panix Promotion v. Lewis*, 2002 U.S. Dist. LEXIS 784 (S.D.N.Y. 2002), and that we never worked together again thereafter. Indeed, prior to the *Panix* case, I had stopped working with Mr. Goldberg in 2001;³

- (viii) As for my relationship with Mr. Isser, I did meet him when he was Mr. Goldberg's associate and am proud to say that, to some extent, I mentored him. I came to respect him greatly based upon his performance as Mr. Goldberg's co-trial counsel in the *Panix* case. Since he started his solo practice many years ago, I believe that I have referred three or four clients to him, and he has, to my recollection, referred one client to me many years ago;
- (ix) In all events, the fact that I refer a client to another lawyer whom I respect does not indicate collusion, as it makes no sense that I would refer a case to a stranger about whose talents I had no knowledge; and
- (x) Most importantly, I never spoke to Mr. Petty prior to recommending him to Mr. Isser through my client.
- 9. **Third**, at page 15, n.7 of Pl. Opp. MOL, counsel writes: "We note that in her Declaration, … [Defendant] also attempts to avoid lying by repeating the buzz words that she was 'advised' and that the process server never 'handed' the Summons and Amended Complaint to Defendant Petty." As anyone can see just by reading it, Defendant's Declaration did not

We did appear as counsel for different clients in an appeal decided in 2003 which had

contend that she had been "advised" by anyone about what transpired on the date of the purported service. Rather, her Declaration stated only that "I am advised that Plaintiff has filed an Affidavit of Service from a process server who claims that my husband and I were served...." (Doc. No. 17-5, at ¶ 2)

10. **Fourth**, Plaintiff states:

Moreover, Defendant Maraj swears that, on September 22, 2021, she spoke with her counsel, Mr. Burstein, to retain him to defend her in the instant action. This clearly shows that Defendant Maraj finally retained counsel to defend her after Defendant Petty was personally served. *See Single Source*, No. 05 CV 1241 NG SMG, 2005 WL 3113421, at *3 (holding that defendant's improper service argument is belied by the fact that defendant was in the process of retaining counsel before Plaintiff's motion for default judgment). This also shows that Defendants' improper service arguments are so lacking in veracity that they are frivolous.

(Pl. Opp. MOL, at 17)

- 11. This claim is frivolous as a matter of law:
- a. The notice that came from the documents left on the doorstep of her home is not equivalent to proper service for the purposes of a default. If that were the case, the process server could have left the complaint on the doorstep when no one was home, and a default would be warranted. In the context of a motion to vacate a default, actual service must be demonstrated. See, e.g., Williams-Steele v. Trans Union, 2013 U.S. Dist. LEXIS 106465, at *5-6 (S.D.N.Y. 2013) (Even where a party had actual notice of a complaint because it was served upon its attorney, "Judge Francis's recommendation that the Certificate of Default is void was proper because ... '[S]ervice of process on an attorney not authorized to accept

- service for his client is ineffective...."); and
- b. Plaintiff's counsel's reliance upon *Single Source Roofing Corp. v. 228 Granite Ave. Realty, LLC*, 2005 U.S. Dist. LEXIS 29879, at *3 (E.D.N.Y. 2005), is also sanctionable because no lawyer, acting in a manner consistent with his or her Rule 11 obligations, could **possibly** cite the *Single Source* Court as "holding that defendant's improper service argument is belied by the fact that defendant was in the process of retaining counsel before Plaintiff's motion for default judgment." (Pl. Opp. MOL, at 17):
 - i. The facts of *Single Source* are so different from this case as to be unrecognizable because the process server's (Hayon) affidavit in that case stated that the defendant "slammed the door shut in my face" after Hayon had told him face-to-face that he was there to serve process. (*Id.*, at *5);
 - ii. The Court held against the defendant because he did "not assert any specific facts to rebut the statements in [the process server's] return of service form and declaration. In fact, [the defendant] concedes that service may have occurred the way [the process server] states, though he has no specific recollection of it." *Id.*, at *8;
 - iii. In *Single Source*, the defendant was claiming that he had never received the complaint, and it was only in that context **and not as a holding** that the Court found his claim lacked credibility because the fact that he had engaged an attorney to address the complaint showed that he had received it as claimed by the process server. *Id*.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on November 10, 2021in the State of Connecticut, Fairfield County.

JUDD BURSTEIN

EXHIBIT A





EXHIBIT B

 From:
 Judd Burstein

 To:
 sisser@isserlaw.com

 Subject:
 Minaj Papers

Date: Tuesday, October 19, 2021 3:09:00 PM

Attachments: 8 Amended Complaint.pdf

2021-10-14 Minaj Declaration.pdf

2021-10-15 JB Dec.pdf

Ex. A.pdf Ex. B.pdf Ex. C.pdf MOL.pdf

Grant of Petty Default.pdf Denial of Nicki Default.pdf

Judd Burstein
Judd Burstein, P.C.
260 Madison Avenue
15th Floor
New York, New York 10016
(212) 974-2400
(212) 974-2944 (Fax)
(917) 687-2981 (Cell—Best number)

MY APOLOGIES IN ADVANCE FOR ANY TYPOGRAPHICAL AND/OR GRAMMATICAL ERRORS. I AM A TERRIBLE TYPIST AND PROOFREADER – PARTICULARLY WHEN I AM DRAFTING AN EMAIL UNDER TIME PRESSURE.

EXHIBIT C

Results for: "Judd Burstein"

Cases

1. A United States v. Gilbert

United States Court of Appeals for the Second Circuit | Dec 11, 1981 | 668 F.2d 94

Overview: Defendant's motion for a new trial based upon newly discovered evidence was properly denied by the district court where defendant's new evidence consisted only of cumulative material attacking the credibility of an unfavorable witness.

... New York City and Alan M. Dershowitz , Cambridge, Mass. (**Judd Burstein** , New York City , Mark Fabiani , Jeffrey Leeds...

2. A Standard Drywall, Inc. v. United States

United States Court of Appeals for the Second Circuit | Jan 05, 1982 | 668 F.2d 156

Overview: Drywall company's appeal for return of property seized pursuant to warrant was properly dismissed for lack of appellate jurisdiction because it was subject of a grand jury investigation, and appeals were available following action by grand jury.

... the grand jury proceedings. Gerald L. Shargel, New York City (**Judd Burstein** , Law Clerk, New York City , on the brief), for ...

3. A Paradiso v. United States

United States Court of Appeals for the Second Circuit | Sep 21, 1982 | 689 F.2d 28

Overview: Alleged plea bargain violation was at most a technical violation, which did not render appellant's plea involuntary by frustrating his reasonable expectations with regard to his sentence.

... by frustrating his reasonable expectations with regard to his sentence. Affirmed. **Judd Burstein**, New York, New York (Gerald L. Shargel, New York ...

4. A United States v. Jacobson

United States Court of Appeals for the Second Circuit | Oct 12, 1982 | 691 F.2d 110

Overview: The evidence was sufficient to sustain defendant's conviction for acquiring a lease through the collection of an unlawful debt because the lease was an "interest" within the meaning of the Racketeer Influenced and Corrupt Organizations Act.

... grand jury transcripts. Gerald Shargel, New York , New York (**Judd Burstein** , of counsel), for Appellant. Charles E. Rose , Assistant United ...

5. <u>A United States v. Mastrangelo</u>

United States Court of Appeals for the Second Circuit | Nov 15, 1982 | 693 F.2d 269

Overview: An evidentiary hearing was necessary to determine if defendant was involved in the death of a witness before the witness's testimony before the grand jury was admissible at defendant's drug trial and if there was a waiver by misconduct.

... of waiver. Gerald L. Shargel, New York , New York (**Judd Burstein** , of Counsel), for Appellant Mastrangelo. William J. Muller , Assistant ...

6. **1** Young v. Abrams

United States Court of Appeals for the Second Circuit | Jan 07, 1983 | 698 F.2d 131

Overview: Statutory presumption that one who promoted obscene material in the course of his business was presumed to know the content and character of the material was not unconstitutional because it created a permissive, not a mandatory, inference.

... was no constitutional error in applying a presumption of scienter. Affirmed. **Judd Burstein**, New York, New York (Gerald L. Shargel...

7. DELVECCHIO v. THOMAS

United States District Court for the Southern District of New York | Jan 25, 1983 | 1983 U.S. Dist. LEXIS 19803

Overview: A habeas corpus petition alleging a denial of due process in connection with a parole violation warrant issued by United States Parole Commission was dismissed where petitioner's incarceration pursuant to a validly issued amended warrant was lawful.

... 150 East 58th Street, New York , New York 10022, BY: **JUDD BURSTEIN** , ESQ., for Petitioner HON. JOHN S. MARTIN, JR., United States ...

United States District Court for the Eastern District of New York | Apr 15, 1983 | 561 F. Supp. 1114

Overview: A defendant involved in a conspiracy involving controlled substances was denied a new trial because grand jury testimony of a government witness who was murdered before trial was properly admitted into evidence.

... Gerald L. Shargel, Esq., Of Counsel, Michael Coiro, Esq., Of Counsel, **Judd Burstein** , Esq., On Brief, New York , New York , for ...

9. • In re FOJP Service Corp.

Supreme Court of New York, New York County | Apr 21, 1983 | 119 Misc. 2d 287

Overview: An order disclosing the minutes of grand jury proceedings was proper because information contained within the minutes was vital for the nonprofit institution to pursue its civil action against the criminally indicted lawyers.

... of counsel), for Mark Kressner, defendant, Gerald L. Shargel and **Judd Burstein** for Charles Smith, defendant, La Rossa, Axenfeld & Mitchell (...

10. <u>A United States v. Furina</u>

United States Court of Appeals for the Third Circuit | May 24, 1983 | 707 F.2d 82

Overview: Attempt to appeal district court's ruling was impermissible attempt to obtain premature ruling on legality of use of records seized by government and the court did not have jurisdiction over the appeal.

... Klitzner, P.C., Union City, New Jersey , for Appellants in 82-5584. **Judd Burstein** , Esq., New York, New York , for Appellant in 82-5614. ...

11. A United States v. Mastrangelo

United States Court of Appeals for the Second Circuit | Nov 04, 1983 | 722 F.2d 13

... affirmed. Gerard L. Shargel, New York , New York , (**Judd Burstein**), for Appellant Mastrangelo. William J. Muller , Assistant United States ...

12. People v. Heinsohn

Court of Appeals of New York | Feb 23, 1984 | 61 N.Y.2d 855

... Law, § 125.15 , subd 1 ; § 15.05, subd 3). **Judd Burstein** and Gerald L. Shargel for appellant. William L. Murphy, District Attorney ...

13. • People v. Joyce

Supreme Court of New York, Appellate Division, Second Department | Apr 09, 1984 | 100 A.D.2d 343

Overview: Fourth degree conspiracy conviction in connection with a bank burglary and robbery conspiracy modified to fifth degree because there was no proof that defendant conspired to display a firearm when he joined the conspiracy.

... third degree was made out, and the judgment is modified accordingly. **Judd Burstein** (Gerald L. Shargel of counsel), for appellant. Patrick Henry, District ...

14. A United States v. Zarintash

United States Court of Appeals for the Third Circuit | May 21, 1984 | 736 F.2d 66

Overview: District court's refusal to read testimony of witness to jury after their request for transcript was error as testimony went directly to issue of defendant's guilt and government would have inevitably discovered identity of second defendant.

... New York , New York , for Appellant Shahbaz Shane Zarintash. **Judd Burstein** , Esq., New York , New York , for Appellant Madeline ...

15. People v. Casalini

Supreme Court of New York, Criminal Term, New York County | Dec 10, 1984 | 126 Misc. 2d 665

Overview: A search warrant that authorized eavesdropping on a telephone line for the purpose of intercepting gambling communications was valid even though it did not name defendants; the wiretap was not illegal, and the evidence obtained was not suppressed.

... by simply continuing to ask questions on the same subject matter. **Judd Burstein** for Louis Casalini and others, defendants. Slotnick & Cutler, P. C ...

16. ◆ Mallette v. Scully

United States Court of Appeals for the Second Circuit | Dec 28, 1984 | 752 F.2d 26

Overview: Writ of habeas corpus relief was not warranted where defendant failed to show that his sentence was enhanced by a state court judge because defendant would not identify his passenger who shot a 16 year-old youth.

... jury had sufficient evidence to return a conviction for manslaughter. Affirmed. **Judd Burstein**, New York , New York for Petitioner-Appellant. Debra W. Petrover ...

17. A United States v. Adams

United States Court of Appeals for the Third Circuit | Apr 15, 1985 | 759 F.2d 1099

Overview: The convictions of multiple defendants on numerous narcotics charges for using a fake charity as a front for selling and distributing narcotics were proper because the evidence was sufficient and the trial court did not abuse its discretion.

... New Jersey Counsel for Appellant Adams. **Judd Burstein** , Esquire (argued), Burns Summit Rovins & Feldesman, New York, New ...

18. United States v. lanniello

United States District Court for the Southern District of New York | Oct 29, 1985 | 621 F. Supp. 1455

Overview: In a RICO prosecution, ample evidence supported finding of probable cause for issuance of a surveillance order where government showed that alternative investigative techniques were not available, on grounds of both ineffectiveness and dangerousness.

... L. Shargel, Esq., New York, New York , for Robert lanniello. **Judd Burstein** , Esq., Anne Feigus , Esq., Roger Parloff , Esq., Mark ...

19. United States v. Ianniello

United States District Court for the Southern District of New York | Apr 16, 1986 | 1986 U.S. Dist. LEXIS 26667

Overview: A receiver was not appointed to run the restaurant when there was no evidence of ongoing criminal activity, and the government was able to monitor the all financial activity. An individual defendant was prohibited from working at the restaurant.

... Ianniello, 447 Madison Avenue, New York , New York 10022, By: **JUDD BURSTEIN** Of Counsel & On The Brief, 445 Park Avenue, New York ...

20. A United States v. Grubczak

United States Court of Appeals for the Second Circuit | Jun 16, 1986 | 793 F.2d 458

Overview: Evidence supported a jury finding that defendant was aware of the likelihood that a dangerous weapon was to be used during the course of a bank robbery.

... Stuart E. Abrams, Assistant United States Attorney, of Counsel), for Appellee. **Judd Burstein**, New York, New York, for Defendant-Appellant. Pierce, Miner ...

United States Tax Court | Sep 29, 1986 | T.C. Memo 1986-492

... 52 T.C.M. (CCH) 707 T.C.M. (RIA) 86492 September 29, 1986 . **Judd Burstein** , for the petitioner. John E. Becker, Jr., for the respondent. ...

United States District Court for the Southern District of New York | Sep 30, 1986 | 646 F. Supp. 1289

Overview: In a case filed under RICO civil penalties section, government's motion for appointment of receiver pendente lite was granted where misuse of restaurant funds was established at criminal trial; government established likelihood of success on merits.

... Hoffman, Pollok & Gasthalter , Esqs., for Defendant Alfred Ianniello, by: **Judd Burstein** , Esq., Jay Goldberg, P.C. , for Defendant Matthew Ianniello, Michael ...

23. A United States v. Gaggi

United States Court of Appeals for the Second Circuit | Jan 21, 1987 | 811 F.2d 47

Overview: The trial court properly denied a mistrial of the remaining defendants based on the publicity surrounding the murder of a co-defendant during trial, and the convictions for civil rights violations committed against non-citizens were reversed.

- ... New York (Robert L. Ellis , Edward M. Chikofsky , **Judd Burstein** , New York , New York , of Counsel), for Defendant-Appellant ...
- ... witnesses who were not citizens. Affirmed in part; reversed in part. **Judd Burstein**, New York, New York (Michael Rosen, Edward M. Chikosky ...
- ... Defendant-Appellant Anthony Gaggi. Michael Rosen, New York , New York (**Judd Burstein** , Edward M. Chikofsky , New York , New York...
- ... New York , submitted Joint Brief for Defendant-Appellant Ronald Ustica. **Judd Burstein** , New York , New York , of Counsel on Joint ...

24. United States v. Gallo

United States District Court for the Eastern District of New York | Feb 19, 1987 | 654 F. Supp. 463

Overview: Defendants, who were indicted for alleged RICO violations, were entitled to pre-trial discovery of statements by co-conspirators under an exception to the Jencks Act when the statements were to be introduced as defendants' own.

... and Laura A. Ward, Esq., for Plaintiff. Jay Goldberg, Esq. and **Judd Burstein**, Esq., for Defendant Joseph Zingaro. (All Defendants join in this ...

25. <u>A United States v. Rivieccio</u>

United States District Court for the Eastern District of New York | May 13, 1987 | 661 F. Supp. 281

Overview: Where the government and the National Credit Union Administration sufficiently plead fraud, unjust enrichment, and other claims by way of a credit union's directors' conspiracy, the directors' motions to dismiss were denied.

... Gary Greenwald, Esq. Greenwald, Graubard & Cohen, Attorney for Angelo D'Acunto. **Judd Burstein**, Esq., Attorney for Edmund Lee. Robert E. Katzberg, Esq., Kaplan ...

26. A United States v. Fiore

United States Court of Appeals for the Second Circuit | Jun 09, 1987 | 821 F.2d 127

Overview: Rational trier of fact could have found criminal guilty of arson because he was only one with keys to bar and left it moments before fire was discovered, and charges for arson and for arson with intent to commit felony did not create multiplicity.

... and Kenneth Roth, Assistant United States Attorney, of Counsel), for Appellee. **Judd Burstein**, (Michael Rose, of Counsel), for Defendant-Appellant. Newman, Miner and Mahoney ...

27. A United States v. Mehra

United States Court of Appeals for the Fourth Circuit | Jul 24, 1987 | 824 F.2d 297

Overview: Defendants had no expectation of privacy in packets that contained illegal drugs seized by state agents without a warrant, and therefore, there was no constitutional violation of the Fourth Amendment.

... that contained illegal drugs seized by state agents without a warrant. **Judd Burstein** (Robert F. Katzberg , Kaplan & Katzberg ; Michael L. ...

28. <u>A United States v. Gallo</u>

United States District Court for the Eastern District of New York | Aug 28, 1987 | 668 F. Supp. 736

Overview: Where an indictment under RICO was complex and involved multiple counts and multiple defendants, a motion for a severance was granted to minor defendants who would have been prejudiced by the volume of evidence against the main RICO defendants.

... H. Newman , Esq., for Defendant James Failla. Jay Goldberg, Esq., **Judd Burstein** , Esq., of counsel, for Defendant Joseph Zingaro. Louis R. Rosenthal ...

29. • In re United States

United States Court of Appeals for the Second Circuit | Dec 01, 1987 | 834 F.2d 283

Overview: Writ of mandamus was issued to vacate a discovery order for the government to produce oral statements of codefendants and coconspirators, if they were memorialized in writing, that the government planned to use at trial as it violated the Jencks Act.

... Department of Justice, for Petitioner. Jay Goldberg, Attorney Pro Forma, (**Judd Burstein**, of Counsel), for Respondent. Van Graafeiland, Meskill and Cardamone, ...

30. <u>A United States v. Jaramillo-Montoya</u>

United States Court of Appeals for the Second Circuit | Dec 01, 1987 | 834 F.2d 276

Overview: Pages from address book were admissible as a coconspirator's statement under the exceptions to the hearsay rule where the evidence showed by a preponderance of the evidence that the declarant, the address book's owner, was a member of the conspiracy.

... not cruel and unusual punishment in the absence of extraordinary circumstances. **Judd Burstein** , P.C. , for Appellant. Patricia A. Pileggi , Assistant United ...

31. United States v. Scopo

United States District Court for the Southern District of New York | Jan 07, 1988 | 1988 U.S. Dist. LEXIS 348

Overview: Presentence report references to amounts involved in defendant's RICO crimes were corrected by the court; due to the poor health of defendant and his wife, the court ordered that defendant be provided medical care and sentenced to level 5 facility.

... Esq., Assistant United States Attorney. For the Defendant Ralph Scopo: **Judd Burstein** , Esq. KEENAN 1 OPINION and ORDER JOHN F. KEENAN...

32. <u>A United States v. Meyerson</u>

United States District Court for the Southern District of New York | Jan 14, 1988 | 677 F. Supp. 1309

Overview: A trial judge was not required to recuse himself after two brief encounters with a defendant many years past, but the trial judge nonetheless voluntarily recused himself because he could no longer remain impartial toward the prosecutor.

... Esq. Jay Goldberg, Esq., Attorney for Carl A. Capasso, of Counsel, **Judd Burstein**, Esq. Shea & Gould , Attorneys for Hortense W. Gabel, ...

33. A United States v. Myerson

United States District Court for the Southern District of New York | Jan 21, 1988 | 1988 U.S. Dist. LEXIS 532

Overview: In a dispute over leaks from the Grand Jury, the district court ordered that affidavits for the most part be unsealed because there was nothing in them damaging to the government.

... Esq. For the Defendant Bess Myerson. Jay Goldberg, Esq., Of Counsel: **Judd Burstein**, Esq. For the Defendant Carl A. Capasso. Shea & Gould ...

34. A United States v. Myerson

United States District Court for the Southern District of New York | Feb 01, 1988 | 1988 U.S. Dist. LEXIS 2066

Overview: On the assumption that a court's order banning communication with press regarding judge's recusal was misunderstood based on lawyers' violations, court clarified its scope and made clear that strict sanctions would be imposed for further violations.

... Capasso: Jay Goldberg, Esq., New York, New York , Of Counsel: **Judd Burstein** , Esq. For the Defendant Hortense W. Gabel: Shea & Gould ...

United States Court of Appeals for the Second Circuit | Feb 16, 1988 | 847 F.2d 42

Overview: Double jeopardy attached when appellate court found evidence insufficient to support defendant's conviction, but double jeopardy did not attach when a mistrial was declared for two other defendants on same charge.

... the Southern District of New York , of Counsel), for Appellee. **Judd Burstein** , Esq., New York , New York , (Lee Ginsberg ...

36. United States v. Bonanno Organized Crime Family of La Cosa Nostra

United States District Court for the Eastern District of New York | Mar 24, 1988 | 683 F. Supp. 1411

Overview: United States was given more time to amend complaint against individuals and entities before decision on permanent injunction, but action against crime family was dismissed because association did not fall within definition of "person" under RICO.

... amend the complaint. Peter R. Ginsberg, Esq., Assistant U. S. Attorney. **Judd Burstein**, P.C., New York, New York, Attorney for Anthony ...

37. <u>A United States v. Bonanno Organized Crime Family of La Cosa Nostra</u>

United States District Court for the Eastern District of New York | Mar 25, 1988 | 119 F.R.D. 625

Overview: Magistrate's order holding that tax returns of organized crime family's alleged boss were not discoverable was set aside. Returns were relevant to civil racketeering action, and boss did not show that the information was available from other sources.

... U. S. Attorney, and Thomas A. Carr, counsel for United States. **Judd Burstein**, P.C., New York, New York, Attorney for Anthony ...

38. A United States v. Davis

United States Court of Appeals for the Second Circuit | Apr 28, 1988 | 845 F.2d 412

Overview: Trial court erred by refusing to allow defendants to testify and present evidence before revoking defendants' bail for alleged witness tampering and trial court was required to make specific findings of fact regarding its decision to revoke bail.

... Remanded. **Judd Burstein**, Esq., New York , New York (Michael R. Gavenchak , Ruth M. Liebesman , **Judd Burstein**, P.C. , ...

39. A Malizia v. Sculley

United States District Court for the Southern District of New York | Apr 29, 1988 | 1988 U.S. Dist. LEXIS 3668

Overview: Inmate's petition for habeas corpus was denied for not satisfying first prong of Strickland test for ineffective assistance; he failed to show that counsel's failure to object to certain hearsay testimony on retrial was professionally unreasonable.

 \dots for habeas corpus relief. However, it granted certificate of probable cause. **JUDD BURSTEIN**, Attorney for Petitioner, New York, New York ROBERT \dots

40. A People v. Burke

Court of Appeals of New York | Jun 09, 1988 | 72 N.Y.2d 833

Overview: Defendant failed to preserve his objection to the admission of the federal cooperation agreement in his second-degree murder trial on the ground that it only applied to federal prosecution because his objection at trial was based on other grounds.

... jury as adverse comment on defendant's failure to take the stand. **Judd Burstein** for appellant. Elizabeth Holtzman , District Attorney (Anthea H. Bruffee ...

41. A United States v. Myerson

United States District Court for the Southern District of New York | Jun 21, 1988 | 1988 U.S. Dist. LEXIS 5688

Overview: Three defendants were not entitled to dismissal of a count of mail fraud in an indictment against them because the reduction of temporary child support payments in divorce proceedings constituted the deprivation of property.

... New York , For Defendant Carl A. Capasso Of Counsel: **Judd Burstein** , Esq. New York , New York Shea & Gould ...

42. A United States v. Myerson

United States District Court for the Southern District of New York | Jul 06, 1988 | 689 F. Supp. 312

Overview: Defendant one's motion to suppress documents brought in by her daughter was denied, except as to financial records, because Fourth Amendment did not apply to documents brought in by person not acting as government agent who conducted private search.

... Capasso: Jay Goldberg, New York , New York , of Counsel: **Judd Burstein** , New York . John F. Keenan , United States District ...

43. United States v. Mariani

United States Court of Appeals for the Second Circuit | Jul 11, 1988 | 851 F.2d 595

Overview: Because the accused's immunized testimony was not used at his criminal trial and because the testimony of two business associates caused his criminal convictions, the accused's immunized testimony was not linked to his convictions.

... Department of Justice, Brooklyn, New York , of Counsel), for Appellant. **Judd Burstein** , New York , New York (Gerald L. Shargel, New York ...

44. United States v. Persico

United States Court of Appeals for the Second Circuit | Aug 04, 1988 | 853 F.2d 134

Overview: A defendant waived his right to appeal a ruling on evidence when he fled before sentencing; the sentence imposed was proper when it was within statutory maximums and the disparity to his codefendant's sentence was due to his background.

... sentence imposed was not excessive and was not constitutionally disproportionate. Affirmed. **Judd Burstein**, New York, New York, for Appellant. Edward A. ...

45. A United States v. Davis

United States District Court for the Southern District of New York | Aug 12, 1988 | 1988 U.S. Dist. LEXIS 8957

Overview: Manifest necessity existed warranting a mistrial and there was no double jeopardy violation in a retrial following the shooting of one government witness and the threatening of a second government witness.

- ... stated in the government's letter. We also received a letter from **Judd Burstein** , who is the attorney for Wayne Davis. The record shows ...
- ... was Michael Gavenchak, who was associated with counsel for Wayne Davis, **Judd Burstein** . The Government announced to the court that it intended to ...
- ... the granting of the mistrial, the then attorney for Wayne Davis, **Judd Burstein** , requested to be relieved and to be replaced by another ...

46. United States v. Myerson

United States District Court for the Southern District of New York | Aug 30, 1988 | 1988 U.S. Dist. LEXIS 9543

Overview: Where Government admitted that an attorney was not a participant in any criminal activity, a federal district court would not exercise an exception to attorney-client privilege to require attorney testify against his client in a criminal proceeding.

... Jay Goldberg, Esq., New York , New York , Of Counsel: **Judd Burstein** , Esq., For the Defendant Carl A. Capasso, For the Defendant ...

47. Himelein v. Frank

Supreme Court of New York, Cattaraugus County | Sep 15, 1988 | 141 Misc. 2d 416

Overview: The district attorney was precluded from bringing a criminal proceeding against defendant on charges that were dismissed as a result of plea bargaining and he was not entitled to bring a civil proceeding of forfeiture for the same crimes.

... An examination of CPLR article 13-A is in order. As Attorney **Judd Burstein** points out in his excellent analysis of article 13-A in Zett ...

48. A United States v. Zingaro

United States Court of Appeals for the Second Circuit | Sep 21, 1988 | 858 F.2d 94

Overview: Conviction for racketeering conspiracy was improper where indictment failed to fairly comprehend loan and introduction of evidence concerning loan impermissibly broadened charges that resulted in constructive amendment of indictment.

... charges resulting in constructive amendment of the indictment. Reversed and remanded. **Judd Burstein** , New York , New York (Jay Goldberg, New York , ...

49. A United States v. Bonanno Organized Crime Family of La Cosa Nostra

United States District Court for the Eastern District of New York | Sep 30, 1988 | 695 F. Supp. 1426

Overview: Certain allegations of racketeering against some defendants were dismissed where the government claimed as predicate acts acts that were not indictable at the time they were committed, and improperly realleged dismissed RICO monetary damage claims.

... monetary damage claims. Peter R. Ginsberg, Esq., Assistant U. S. Attorney, **Judd Burstein**, P.C., New York, New York, Attorney for ...

50. United States v. Yu

United States District Court for the Eastern District of New York | Oct 24, 1988 | 697 F. Supp. 635

Overview: In a prosecution for distributing heroin, defendant did not win a ruling to allow his attorney to elicit from a government agent a statement that defendant made at the time of his arrest. The statement was self-serving and was not relevant.

... Attorney for Defendant Lee, New York , New York . **Judd Burstein** , Esq., Attorney for Defendant Chen, New York , New York ...

United States Court of Appeals for the Second Circuit | Oct 28, 1988 | 861 F.2d 339

Overview: Continuance was not required so defendant could hire counsel of choice; the right to choose his own counsel was circumscribed in several important respects and had to at times give way to the need for the fair and efficient administration of justice.

... New York , New York , on the brief), for Appellee. **Judd Burstein** , New York , New York , for Defendant-Appellant Scopo. Harold ...

52. • Madonna v. United States

United States District Court for the Southern District of New York | Nov 07, 1988 | 1988 U.S. Dist. LEXIS 12484

Overview: A prisoner's independent action for relief from a contempt finding was dismissed for failure to state a claim upon which relief could be granted; new facts alleged by the prisoner did not case any doubt on the validity of the prior decision.

... PLAINTIFF, GUSTAVE H. NEWMAN, P.C., New York, New York, **JUDD BURSTEIN**, P.C., New York, New York, **JUDD BURSTEIN**, RUTH LIEBESMAN, Of Counsel ATTORNEY FOR DEFENDANT, ...

53. United States v. Migliore

United States District Court for the Southern District of New York | Dec 08, 1988 | 1988 U.S. Dist. LEXIS 14021

Overview: Defendant's motion to be released on bail pending appeal was denied because he failed to prove by clear and convincing evidence that he would not flee if released. Defendant was facing a long sentence, had substantial resources, and foreign contacts.

... HELLERER, ESQ., Assistant United States Attorneys, New York, NY **JUDD BURSTEIN**, P.C., New York, NY, Counsel to Albert Gaudelli ...

United States Court of Appeals for the Second Circuit | Jan 10, 1989 | 866 F.2d 28

Overview: Venue was proper in prosecution for false statements on tax returns where return was made or subscribed, where preparer received information from taxpayer, or where it was filed.

... conspiracy even though appellant did not conspire with each contributor. Affirmed. **Judd Burstein**, New York, New York (Michael R. Gavenchak...

55. A United States v. Rastelli

United States District Court for the Eastern District of New York | Jan 13, 1989 | 1989 U.S. Dist. LEXIS 593

Overview: Order denying disqualification of attorney was not certified for appeal because there was no true legal issue with precedential value since there was no substantial relation between subject matter of attorney's prior representation and present suit.

... the issues in the present lawsuit. The government's motion was denied. **Judd Burstein** , P.C., Attorney for Anthony Spero Joseph R. Benfante , Esq., ...

56. A United States v. Ianniello

United States Court of Appeals for the Second Circuit | Jan 18, 1989 | 866 F.2d 540

Overview: Defendants were entitled to a new trial and an evidentiary hearing after the trial judge made out-of-court statements to the jury about the necessity of reaching a verdict.

... prejudice to appellants. Order vacated and case remanded for a hearing. **Judd Burstein**, New York, New York (John Jacobs, Anthony Cardinale...

57. A United States v. Salerno

United States Court of Appeals for the Second Circuit | Jan 31, 1989 | 868 F.2d 524

Overview: Imposing identical 100-year prison terms on seven defendants convicted of RICO violations was not overly mechanistic and did not violate the defendants' rights under the Eighth Amendment.

- ... New York (Walter P. Loughlin , Newark, New Jersey and **Judd Burstein** , New York , New York of Counsel), for Defendant-Appellant Salvatore ...
- ... Boston, Massachusetts (Walter P. Loughlin, Newark, New Jersey and **Judd Burstein**, New York, New York, of Counsel), for Defendant-Appellant ...
- ... New York (Walter P. Loughlin , Newark, New Jersey and **Judd Burstein** , New York , New York , of Counsel), for Defendant-Appellant ...
- ... New York (Walter P. Loughlin , Newark, New Jersey and **Judd Burstein** , New York , New York of Counsel), for Defendant-Appellant Ralph ...

58. A United States v. Rivieccio

United States District Court for the Eastern District of New York | Feb 28, 1989 | 1989 U.S. Dist. LEXIS 2271

Overview: A motion for an order disqualifying an attorney as counsel for multiple defendants in various suits was granted because the attorney failed to satisfy the court that his clients had consented to the multiple representation.

 \dots Cohen, Wurtsboro , New York , Attorney for Angelo D'Acunto. **Judd Burstein** , Esq., New York , New York , Attorney for Edmund \dots

59. <u>A United States v. Rastelli</u>

Overview: Although defendants claimed that their RICO conspiracy convictions were erroneous, the court affirmed because defendants only needed to be aware of at least the general existence of the enterprise named in the indictment.

... Warren Weissman. Gerald L. Shargel, New York , New York (**Judd Burstein** , of Counsel), for Appellant Dominic Mariani. Kearse, Pratt, and Mahoney ...

60. United States v. Rastelli

United States District Court for the Eastern District of New York | May 01, 1989 | 1989 U.S. Dist. LEXIS 5079

Overview: Former officers of a local union who were ousted in an election and challenged the Secretary of Labor's certification of election could not challenge factual bases of certification but had to prove that the certification was arbitrary or capricious.

... of the election. Peter R. Ginsberg, Esq., Assistant U. S. Attorney. **Judd Burstein**, P.C., New York, New York, Attorney for Anthony ...

61. A People v. Mikuszewski

Court of Appeals of New York | May 02, 1989 | 73 N.Y.2d 407

Overview: Systematic ongoing conduct was insufficient to support a grand jury indictment for a scheme to defraud where no evidence existed that defendants intended to defraud 10 or more persons as required under New York Penal Law.

 \dots v Lemire , 720 F2d 1327 , 467 U.S. 1226 .) **Judd Burstein** and Jay Goldberg for respondents. The evidence before the Grand Jury \dots

United States District Court for the Eastern District of New York | Jun 12, 1989 | 715 F. Supp. 445

Overview: An inmate was not entitled to have conviction set aside or to a new trial even though government commented in closing argument that a key government witness had agreed to tell truth on threat of cancellation of agreement not to prosecute witness.

... petition. Jay Goldberg, P.C. , New York , New York , **Judd Burstein** , P.C., New York , New York , Attorneys for Petitioner. ...

United States Court of Appeals for the Second Circuit | Jun 20, 1989 | 878 F.2d 62

Overview: Where inmate failed to present credible "new" evidence that government perpetrated a fraud on the court in procuring a contempt citation against him, his challenge to the citation was dismissed. Inmate also failed to plead fraud with particularity.

... years to the remaining 20 years of a 30-year sentence. Affirmed. **Judd Burstein** , P.C., New York , New York (Gustave Newman, P.C., Paul ...

64. A In re Sasson Jeans, Inc.

United States District Court for the Southern District of New York | Sep 06, 1989 | 104 B.R. 600

Overview: The appointment of a trustee to prosecute two criminal contempt actions against a contemnor that arose from a bankruptcy court's orders was improper, as the trustee was an "interested party."

... Esq., Jeanne M. Murphy, Esq. **Judd Burstein**, P.C., New York, New York, Attorney for Defendant Paul Guez, of counsel: **Judd Burstein**, Esq., Michael R. Gavenchak, Esq. ...

65. United States v. Gambino

United States District Court for the Southern District of New York | Jan 25, 1990 | 729 F. Supp. 954

Overview: Co-conspirator was entitled to dismissal of one count of indictment where United States was precluded from introducing evidence of alleged prior narcotic import scheme by collateral estoppel arising from jury's prior acquittal co-conspirator.

... Andrew C. McCarthy, Esq., of counsel, Attorneys for the United States. **Judd Burstein**, Esq., New York, New York, Edward Panzer, ...

66. <u>A United States v. Scarpa</u>

United States Court of Appeals for the Second Circuit | Feb 23, 1990 | 897 F.2d 63

Overview: A waiver of the right to counsel was inferred from defendant's familiarity with the legal process and his confidence in dealing with law enforcement officers, and a statement that defendant would get a lawyer was not a request for counsel.

... Joseph R. Benfante , New York , New York (**Judd Burstein** , New York , of counsel), for Defendant-Appellant. Jerome C. Roth ...

67. In re Adelphi Inst., Inc.

United States District Court for the Southern District of New York | Mar 21, 1990 | 112 B.R. 534

Overview: In a bankruptcy action where adversary proceedings were instituted that include RICO claims, mandatory withdrawal to a district court was not warranted because there was no showing that it was necessary for resolution of the controversy.

... for Defendant Albert A. Terranova, New York , New York . **Judd Burstein** , P.C., Attorney for Defendant Melany K. Terranova, New York , ...

68. A Madonna v. U.S. Parole Com.

United States Court of Appeals for the Third Circuit | Apr 13, 1990 | 900 F.2d 24

Overview: Inmate was correctly classified as having committed a category eight offense and because guideline range applicable to him had no upper limit, he was not entitled to release.

... from the guidelines occurred, or could have occurred, in the case. **Judd Burstein** (Argued), Wendy A. Rothstein , New York, New York , Attorneys ...

69. A United States v. Ianniello

United States District Court for the Southern District of New York | Apr 26, 1990 | 740 F. Supp. 171

Overview: A motion for new trial was denied where, under the totality of the evidence, there was no credible evidence that the trial court interfered with the deliberations of the jurors or attempted in any way to influence or coerce the trial jury.

- ... Jay Goldberg, Esq., New York , New York , of counsel: **Judd Burstein** , Esq., New York , New York . For Defendant Anthony ...
- ... Counsel now dispute that they gave such consent. See Letter of **Judd Burstein**, Esq. docketed January 12, 1990. This issue is beyond the ...

70. A Haviland v. Goldman, Sachs & Co.

United States District Court for the Southern District of New York | May 08, 1990 | 736 F. Supp. 507

Overview: Employee's action against his employer, a securities dealer, was stayed where the employee had signed securities industry registration application containing arbitration provision applicable to employment disputes with the securities firm.

... Esq., Michael G. Berger, Esq., of counsel. **Judd Burstein**, P.C., Attorneys for Plaintiff, New York, New York, **Judd Burstein**, Esq., of counsel. Sullivan & Cromwell...

71. People v. Persico

Supreme Court of New York, Appellate Division, First Department | May 22, 1990 | 157 A.D.2d 339

Overview: The Confrontation Clause did not require the exclusion of otherwise coconspirator hearsay when the declarant did not himself testify in the prosecutor's case and, therefore, could not be cross-examined by the defendant.

... brief; Robert M. Morgenthau , District Attorney , attorney), for respondent. **Judd Burstein** for appellant. Murphy , P. J. Sullivan, Carro, ...

72. Miller v. Helmsley

United States District Court for the Southern District of New York | Aug 29, 1990 | 745 F. Supp. 932

Overview: An employee's civil RICO claims and attendant state claims against various employers were dismissed because neither employee's loss of employment nor his reduced commissions and/or bonus conferred standing on him.

... S. Cherdack, Richard A. Edlin. For the Defendant Licari: **Judd Burstein**, P.C., New York, New York, by: **Judd Burstein**. Kenneth Conboy...

73. United States v. Gambino

United States Court of Appeals for the Second Circuit | Dec 10, 1990 | 920 F.2d 1108

Overview: Denial of dismissal of defendants' motion to dismiss on double jeopardy grounds was improper because successive prosecution of conspiracies was barred by double jeopardy if offenses charged were in fact and in law the same.

... law the same. Affirmed in Part, Reversed in Part, and Remanded. **Judd Burstein**, New York, New York (Wendy A. Rothstein, ...

74. A United States v. Gelb

United States District Court for the Southern District of New York | Feb 04, 1991 | 1991 U.S. Dist. LEXIS 1507

Overview: Defendant was not entitled to relief from judgment where her attorney's failure to represent her, while an exercise of bad judgment, did not amount to dishonesty that constituted a fraud upon the court.

... Settlement Agreement bears the following signature over Pollok's signature line: " **Judd Burstein** for John Pollok." Mr. Pollok, however, was signing in his capacity ...

75. United States v. Salerno

United States Court of Appeals for the Second Circuit | Jun 28, 1991 | 937 F.2d 797

Overview: In criminal matter, trial court committed reversible error by refusing to allow defendants to introduce at trial grand jury testimony of two cooperating witnesses as evidence was material and was admissible under prior testimony hearsay exception.

- ... Counsel), for Appellee. Jay Goldberg, New York , New York (**Judd Burstein** , New York , New York , of Counsel), for Defendant-Appellant ...
- ... New York , New York , for Defendant-Appellant Aniello Migliore. **Judd Burstein** , New York , New York (John Jacobs...

76. Federal Sav. & Loan Ins. Corp. v. 52 Park Assoc.

United States District Court for the Southern District of New York | Jul 18, 1991 | 1991 U.S. Dist. LEXIS 9823

Overview: Court ordered further hearing regarding a provision for a deficiency judgment against guarantors because FSLIC notice of motion for summary judgment failed to give notice that judgment would also provide for a deficiency judgment against guarantors.

... Attorneys for Plaintiff. **JUDD BURSTEIN**, P.C., Attorney for Defendant 52 Park Associates, New York, New York, By: **JUDD BURSTEIN**, ESQ., Of Counsel. JAY GOLDBERG, P.C., Attorney for Defendants ...

77. A United States v. Salerno

United States Court of Appeals for the Second Circuit | Sep 24, 1991 | 1991 U.S. App. LEXIS 33827

- ... Counsel), for Appellee. Jay Goldberg, New York , New York (**Judd Burstein** , New York , New York , of Counsel), for Defendant-Appellant ...
- ... New York , New York , for Defendant-Appellant Aniello Migliore. **Judd Burstein** , New York , New York (John Jacobs , New ...

78. A Haviland v. Goldman, Sachs & Co.

United States Court of Appeals for the Second Circuit | Oct 16, 1991 | 947 F.2d 601

Overview: In the absence of an enforceable written agreement, an affiliate of the New York stock exchange member firm did not have authority to demand arbitration of non-exchange-related claims against it by an employee of a member firm.

... New York , New York , of Counsel), for Defendant-Appellant. **Judd Burstein** , New York , New York (Jay Goldberg, P.C....

79. A United States v. Salerno

United States Court of Appeals for the Second Circuit | Nov 06, 1991 | 952 F.2d 623

- ... Counsel), for Appellee. Jay Goldberg, New York , New York (**Judd Burstein** , New York , New York , of Counsel), for Defendant-Appellant ...
- ... New York , New York , for Defendant-Appellant Aniello Migliore. **Judd Burstein** , New York , New York (John Jacobs , New ...

80. A United States v. Salerno

United States Court of Appeals for the Second Circuit | Nov 20, 1991 | 952 F.2d 624

- ... Counsel), for Appellee. Jay Goldberg, New York , New York (**Judd Burstein** , New York , New York , of Counsel), for Defendant-Appellant ...
- ... New York , New York , for Defendant-Appellant Aniello Migliore. **Judd Burstein** , New York , New York (John Jacobs , New ...

81. A In re Finley, Kumble, Wagner, Heine, Underberg, Manley, Myerson & Casey

United States District Court for the Southern District of New York | Jan 23, 1992 | 135 B.R. 456

Overview: The second set of claimants had standing to appeal the confirmation of the trustee's third amended Chapter 11 plan because a procedural default could not defeat their standing and they were aggrieved by the confirmation.

... for the TRUSTEE, Of Counsel: ADLAI S. HARDIN, JR. , ESQ. **JUDD BURSTEIN** , P.C., 950 Third Avenue, New York, New York 10022 and ...

82. A Trump v. Trump

Supreme Court of New York, Appellate Division, First Department | Apr 16, 1992 | 179 A.D.2d 201

Overview: Deletion of a confidentiality clause, without notice to the parties, exceeded the trial court's limited authority to disturb the terms of a separation agreement. The wife's agreement not to publish about her husband did not violate public policy.

... of the post-nuptial agreement from incorporation. Jay Goldberg, of counsel (**Judd Burstein** , with him on the brief, Tenzer, Greenblatt, Fallon and Kaplan ...

United States District Court for the Southern District of New York | Jun 10, 1992 | 796 F. Supp. 95

Overview: The employee did not have standing to bring a RICO action because he was not the intended victim of the alleged scheme. Any injury suffered by the employee resulted from his refusal to cooperate rather than the racketeering activity itself.

... Esq., Of Counsel, **JUDD BURSTEIN**, P.C., 950 Third Avenue, New York, New York 10022, **JUDD BURSTEIN**, Esq., Of Counsel. ...

84. A United States v. Private Sanitation Indus. Ass'n

United States District Court for the Eastern District of New York | Jun 29, 1992 | 793 F. Supp. 1114

Overview: Carting industry defendants in a civil RICO action were successful in persuading the court to dismiss certain claims against them due to inadequate predicate acts and allegations of pattern and conspiracy, and the unavailability of certain relief.

... Roll-Off Service, Inc., Prudential Waste Disposal, TWA Sanitation, John Pagano, Defendants: **Judd Burstein**, Esq., 950 Third Avenue, New York, New York 10022. ...

85. A Fashion Boutique v. Fendi, USA, Inc.

United States District Court for the Southern District of New York | Jul 02, 1992 | 1992 U.S. Dist. LEXIS 9881

Overview: In a market where word-of-mouth disparagement was the only possible method of commercial promotion, a N.J. corporation stated a Lanham Act claim by alleging N.Y. corporations engaged in a systematic scheme to falsely disparage its goods and services.

... 250 Park Avenue, New York, NY 10177, (212) 983-6000, BY: **Judd Burstein** , Jay Goldberg . For Defendants: PAVIA & HARCOURT , 600 ...

86. A Wachtel v. Storm

United States District Court for the Southern District of New York | Aug 20, 1992 | 796 F. Supp. 114

Overview: Defendant's motion to dismiss plaintiff's defamation action was denied. A complaint could only be dismissed for failure to state a claim if it appeared beyond doubt that no set of facts in support of the claim could be proved.

... plaintiff's defamation action for failure to state a claim was denied. **JUDD BURSTEIN**, ESQ., Attorney for Plaintiff, 950 Third Avenue, New York, New ...

87. A United States v. All Funds on Deposit in Any Account etc.

United States District Court for the Eastern District of New York | Nov 27, 1992 | 1992 U.S. Dist. LEXIS 18711

Overview: A husband's answer to the United States' in rem civil suit that sought to forfeit and condemn certain bank accounts was not time-barred because the husband's preparation for a term of life imprisonment was an excusable reason for the delayed answer.

... the conference due to a "scheduling conflict," and that he requested **Judd Burstein**, attorney for claimant Lillian Casso, to appear for Amuso. Counsel ...

88. A Diduck v. Kaszycki & Sons Contractors

United States District Court for the Southern District of New York | Mar 10, 1993 | 147 F.R.D. 60

Overview: The employees were entitled to substitute a new class representative in the class action case against an employer where the class representative's death did not make the claims of the class members moot and a new representative could likely be found.

... Jay Goldberg, Esq., 250 Park Avenue, New York , NY 10017, **Judd Burstein** , P.C., 950 Third Avenue, New York , NY 10022, Of ...

89. A United States v. Gambino

United States District Court for the Eastern District of New York | Apr 15, 1993 | 818 F. Supp. 536

Overview: Defendant's acquittal in separate case was inadmissible hearsay and, alternatively, was not relevant because it did not show bias of the government and did not prove innocence, but merely proved failure to establish the elements of the prior crime.

... Street, New York , New York 10024, Attorney for Thomas Gambino. **Judd Burstein** , Esq., 950 Third Avenue, New York , New York 10022, ...

90. A United States v. Gambino

United States District Court for the Eastern District of New York | Apr 15, 1993 | 818 F. Supp. 541

Overview: Defendants motion for dismissal of indictment under Speedy Trial Act was denied because their failure to file a motion for dismissal prior to trial or entry of a plea of guilty or nolo contendere constituted a waiver of right to dismissal under Act.

... Street, New York , New York 10024, Attorney for Thomas Gambino. **Judd Burstein** , Esq., 950 Third Avenue, New York , New York 10022, ...

91. A United States v. Santopietro

United States Court of Appeals for the Second Circuit | Jun 09, 1993 | 996 F.2d 17

Overview: Majority leader of city board of aldermen's sentence was vacated and remanded because the trial court improperly applied a two-level enhancement under sentencing guidelines that was specifically prohibited.

... affirmed except Robert Giacomi's, which is vacated and remanded for resentencing. **JUDD BURSTEIN**, New York, NY (Gerald L. Shargel, ...

92. A Diduck v. Kaszycki & Sons Contractors, Inc.

United States District Court for the Southern District of New York | Jun 15, 1993 | 149 F.R.D. 55

Overview: Shareholder class members were granted intervention at death of plaintiff by right or, alternatively, by permission as in either instance, they met all requirements for intervention under federal rules and any recovery would accrue to Union Funds.

... Goldberg, Esq., 250 Park Ave., New York, NY 10022, Of Counsel: **JUDD BURSTEIN**, P.C., By: **Judd Burstein**, Esq., Karen A. Murphy, Esq., 950 Third Ave., New York, ...

United States District Court for the Eastern District of New York | Jul 20, 1993 | 1993 U.S. Dist. LEXIS 10051

Overview: Defendant's motion to disqualify the court for lack of impartiality or the perception of it was denied where the motion had no reasonable basis.

... 150 East 58th Street, New York , New York , 10024. **Judd Burstein** , Esq., 950 Third Avenue, New York , New York , ...

94. A United States v. Gambino

United States District Court for the Eastern District of New York | Oct 26, 1993 | 835 F. Supp. 74

Overview: Defendant was not entitled to a new trial because there was no reasonable probability that the outcome of his racketeering trial would have been different if a witness' testimony, a prosecutor's letter, or an FBI agent's notes had been disclosed.

... S. Mearns , Assistant U.S. Attorney. For Defendant: Michael Rosen, Esq., **Judd Burstein** , Esq., Of Counsel, Gerald Shargel, Esq., Of Counsel. Glasser I. ...

95. U <u>Levine v. Forty Second St. Co.</u>

Supreme Court of New York, Appellate Division, Second Department | Nov 01, 1993 | 198 A.D.2d 214 10209 November 1, 1993, Decided September 29, 1993, Submitted **Judd Burstein**, P.C., New York, N.Y. (Elizabeth Hill of counsel), ...

United States District Court for the Southern District of New York | Nov 02, 1993 | 837 F. Supp. 57

Overview: Although mortgages given by a corporate judgment debtor for a purported loan were void under the Deep Rock Doctrine, fees paid by the judgment debtor to the attorneys for co-defendants were not fraudulent or recoverable by the judgment creditors.

... J. FRANK, HIRAM H. FRANK, GERALD LEFCOURT, JAY GOLDBERG, MICHAEL BERGER, **JUDD BURSTEIN**, GOLDSTEIN & STOLOFF, RICHARD WARE LEVITT and CLIFF GORDON, Respondents. York . Counsel for Respondent Attorneys Gerald Lefcourt , Jay Goldberg, **Judd Burstein** , Richard Ware Levitt and Cliff Gordon : LEFCOURT & DRATEL, ...

97. A Lerman v. Joyce Int'l

United States Court of Appeals for the Third Circuit | Nov 10, 1993 | 10 F.3d 106

Overview: Implied agreement to introduce management to customers was not material to a severance agreement; assignment of legal claims from one company to its successor was valid and allowed the successor to pursue racketeering claims against an employee.

... fees were properly awarded to the employer as the prevailing party. **JUDD BURSTEIN**, P.C., 950 Third Avenue, New York, New York 10022, Of Counsel and On The Brief. **JUDD BURSTEIN**, ESQ. (Argued), KIM P. BONSTROM...

United States Court of Appeals for the Second Circuit | Nov 18, 1993 | 10 F.3d 59

Overview: Trial court's error in not instructing the jury that it had to find a relationship among the predicate acts supporting the RICO violation was harmless because evidence that the predicate acts were interrelated was overwhelming.

... acts supporting the RICO violation. Affirmed on ground of harmless error. **JUDD BURSTEIN**, P.C., New York, New York (Jay Goldberg, P.C. ...

Supreme Court of New York, Appellate Division, Second Department | Jan 24, 1994 | 200 A.D.2d 646

Overview: Wholesaler's action against gasoline company was dismissed, as contract claim was barred by the statute of frauds, no cause of action for its fraud claim was stated, and it did not have a cause of action under the state's price gouging statute.

... Sockett of counsel), Maler & Maler, Patchogue , N.Y. , and **Judd Burstein** , P.C., New York , N.Y. (Elizabeth Hill of counsel), ...

100. ◆ HBE Leasing Corp. v. Frank

United States Court of Appeals for the Second Circuit | Apr 12, 1994 | 22 F.3d 41

Overview: Despite plaintiffs' pretrial order which indicated that plaintiffs' theory of the case was that no equipment actually existed under sham leases, plaintiff was allowed to present rebuttal evidence that the equipment presented by defendants was old.

... S. Pitkin Marshall , New York, NY), for Plaintiffs-Appellees. **JUDD BURSTEIN** , New York, NY , (Jay Goldberg, Richard Ware Levitt , ...

101. A United States v. Amuso

United States Court of Appeals for the Second Circuit | Apr 20, 1994 | 21 F.3d 1251

Overview: Admission of evidence of accused's flight, which occurred shortly after his initial indictment, was not erroneous because fact of flight was relevant to crimes charged and necessary to jury's understanding of his conduct while he was fugitive.

 \dots it was necessary to the jury's understanding. The judgment is affirmed. **JUDD BURSTEIN**, New York, NY (Marc Fernich, Kim P. \dots

102. A People v. Guidice

Court of Appeals of New York | May 12, 1994 | 83 N.Y.2d 630

Overview: Linesheets prepared by police who were monitoring telephone conversations involving defendants pursuant to a wiretap order were admissible in evidence under the business records exception to the hearsay rule.

... unapprehended fourth man. Kim P. Bonstrom , New York City , **Judd Burstein** and Marc Fernich for appellants. I. It was an abuse of ...

103. • Tiuman v. Canant

United States District Court for the Southern District of New York | May 19, 1994 | 1994 U.S. Dist. LEXIS 6626

Overview: Defendant was entitled to a motion to disqualify plaintiffs' counsel because he was a former client of the attorney, the facts that gave rise to the material issues in both actions were practically the same, and a substantial relationship existed.

- ... See United States v. Canant, 90 Cr. 747-01 (S.D.N.Y.) (JSM). **Judd Burstein**, P.C. ("Burstein") agreed to represent both Canant and ...
- ... The court granted defendant's motion to disqualify plaintiffs' counsel. For Plaintiffs: **JUDD BURSTEIN**, P.C., New York, New York Of Counsel: Kim ...
- ... Judge: Before the Court is defendant's motion to disqualify plaintiffs' counsel, **Judd Burstein**, P.C., pursuant to New York Disciplinary Rule 5-108 ("Conflict ...
- ... at 1452 . 2. Analysis In the present case, **Judd Burstein** represented Canant for a period of time in both the criminal ...

104. • United States v. Koreh

United States District Court for the District of New Jersey | Jun 28, 1994 | 856 F. Supp. 891

Overview: Plaintiff, United States, was granted summary judgment to strip defendant of his citizenship for assisting in the persecution of Jews and civilians, and participating in a movement hostile to the United States.

 \dots Attorney, U.S. Attorney's Office, Newark , New Jersey . For Defendant: Judd Burstein , Esq., Kathryn McLaughlin , Esq., New York , New York \dots

105. **Q** United States v. Mittelstaedt

United States Court of Appeals for the Second Circuit | Aug 10, 1994 | 31 F.3d 1208

Overview: Engineer's mail fraud convictions were reversed because no "property" was involved; because depriving others of their right to honest services was not a crime during his involvement, a co-conspirator's mail fraud conviction was reversed.

... Mineola , NY , of counsel), for Defendant-Appellant Arthur Mittlestaedt. **JUDD BURSTEIN** , New York , NY (Kim P. Bonstrom , ...

United States District Court for the Eastern District of New York | Oct 13, 1994 | 899 F. Supp. 974

Overview: Government was entitled to summary judgment in its civil RICO action against an owner where the owner's guilty plea to coercion and his admission of bribery established the first and second predicate act as part of a pattern of racketeering activity.

... Roll-Off Service, Inc., Prudential Waste Disposal, TWA Sanitation, John Pagano, Defendants: **Judd Burstein**, Esq., New York, New York . For Local 813, ...

107. A United States v. Rem

United States Court of Appeals for the Second Circuit | Oct 13, 1994 | 38 F.3d 634

Overview: Government did not show willful nonpayment adequate to impose personal liability as a matter of law on a corporate officer where he testified without contradiction that he did not know that back withholding taxes were owed.

... New York , New York , on the brief), for Plaintiff-Appellee. **JUDD BURSTEIN** , New York , New York (Kim P. Bonstrom...

108. A Hardy v. Kaszycki & Sons Contractors

United States District Court for the Southern District of New York | Oct 20, 1994 | 870 F. Supp. 489

Overview: For issue to have preclusive effect, it had to be identical with that earlier litigated. Holding that building owner was liable as participant in another's breach of ERISA duty did not preclude owner from arguing he was not an ERISA "employer."

... for the Trump Defendants, New York , NY . Of Counsel: **Judd Burstein** , Karen A. Murphy. STEEL, BELLMAN, RITZ and CLARK, P.C. , ...

109. United States v. Gigante

United States Court of Appeals for the Second Circuit | Oct 24, 1994 | 39 F.3d 42

Overview: Offenders' sentences for extortion and conspiracy to commit extortion were enhanced by upward departures from Sentencing Guidelines based on the amount of loss by the victim, the roles offenders played in crime, and the obstruction of justice.

... Attorneys, Eastern District of New York , of counsel), for Appellee. **JUDD BURSTEIN** , New York , New York (Marc Fernich , New ...

110. A United States v. Private Sanitation Indus. Ass'n

United States District Court for the Eastern District of New York | Nov 11, 1994 | 159 F.R.D. 389

Overview: In a civil RICO action, court granted a motion to substitute estates of deceased defendants because the relief (divestiture and disgorgement) that was sought was remedial and not punitive in nature so that action survived the deaths of those parties.

... Roll-Off Service, Inc., Prudential Waste Disposal, TWA Sanitation, John Pagano : **Judd Burstein** , Esq., New York , New York . For Defendants Local ...

111. 🛕 Lindemann v. American Horse Shows Ass'n

Supreme Court of New York, New York County | Dec 01, 1994 | 164 Misc. 2d 937

Overview: A person charged with a crime could not be summarily and indefinitely suspended from his or her position as a member of a private association or from the exercise of rights and privileges on the basis of the accusation alone.

... Duker & Barrett for George Lindemann, Jr., and another, plaintiffs. **Judd Burstein** and Saul Rudes for Marion Hulick, plaintiff. Tenzer, Greenblatt, Fallon & ...

112. A HBE Leasing Corp. v. Frank

United States Court of Appeals for the Second Circuit | Jan 18, 1995 | 48 F.3d 623

Overview: Where judgment creditors argued that the debtor's payment of attorney fees was made with fraudulent intent, the trial court erred in dismissing their claim based on a finding of fair consideration under New York's Uniform Fraudulent Conveyance Act.

- ... v. CLEMENCE FRANK, Respondent-Appellant, and GERALD LEFCOURT, JAY GOLDBERG, MICHAEL BERGER, **JUDD BURSTEIN**, GOLDSTEIN & STOLOFF, RICHARD WARE LEVITT and CLIFF GORDON, Respondents-Cross-Appellees. ...
- \dots on the brief), for respondents-cross-appellees Gerald Lefcourt , Jay Goldberg, **Judd Burstein** , Richard Ware Levitt, and Cliff Gordon. Michael G. Berger , \dots

113. A United States v. Ward

United States District Court for the Northern District of Illinois, Eastern Division | Jan 19, 1995 | 1995 U.S. Dist. LEXIS 705

Overview: Three defendants, charged with wire fraud and conspiracy, could not strike allegations from the indictment because the lack of identification of three employees, who were told not to talk to insurance investigators, did not invalidate the indictment.

... defendant: Gregory Campbell Jones , Grippo & Elden , Chicago, IL. **Judd Burstein** , Attorney at Law, New York, NY . U. S. Attorneys: ...

114. Bogart v. Shearson Lehman Bros.

United States District Court for the Southern District of New York | Feb 03, 1995 | 1995 U.S. Dist. LEXIS 1291

Overview: An investment company's motion for summary judgment was granted against an investor to the extent that the investor could not prove fraudulent misrepresentation. There were factual issues regarding the investor's churning claim.

... respects, the court denied the motion. For ROBERT B. BOGART, plaintiff: **Judd Burstein**, **Judd Burstein**, P.C., New York, NY. NINA GERSHON...

115. 💠 HBE Leasing Corp. v. Frank

United States District Court for the Southern District of New York | Mar 22, 1995 | 882 F. Supp. 60

Overview: As the judgment creditors' subpoenas sought information regarding the debtors' family members in order to aid the judgment creditors in filing a separate lawsuit against the family members, ancillary jurisdiction over the subpoenas did not exist.

- ... NY . For BRUCE HUGGINS, H.H.F. FARMS, INC. , defendants: **Judd Burstein**, **Judd Burstein** , P.C., New York , NY . Richard A. Stoloff , ...
- \dots NY . For BRUCE HUGGINS, H.H.F. FARMS, INC. , counter-claimants: **Judd Burstein**, **Judd Burstein**, P.C., New York , NY . Gerard L. Goettel , \dots

116. United States v. Reaume

United States Court of Appeals for the Eleventh Circuit | Mar 23, 1995 | 51 F.3d 1050

... Docket No. 93-297-CR-T-24(B). DISTRICT JUDGE: Bucklew, Susan C. ATTORNEY(S) FOR APPELLANT(S): **JUDD BURSTEIN**, New York, NY . ATTORNEY(S) FOR APPELLEE(S): JOSEPH RUDDY , ...

117. United States v. Cain

United States District Court for the Northern District of Illinois, Eastern Division | May 09, 1995 | 1995 U.S. Dist. LEXIS 6319

Overview: In a multi-defendant mail fraud case, defendant's motion to dismiss the indictment as time-barred was dismissed. His motion for severance regarding the counts not involving him was granted.

... Gregory Campbell Jones , Grippo & Elden , Chicago , IL. **Judd Burstein** , Attorney at Law, New York , NY . U. S. ...

118. A United States v. Gambino

United States Court of Appeals for the Second Circuit | Jul 06, 1995 | 59 F.3d 353

Overview: Appellant convicted of racketeering and related crimes unsuccessfully argued the violation of his right to a speedy trial, and allegedly newly discovered exculpatory material entitled him to dismissal of his indictment and a new trial.

... Affirmed. GERALD L. SHARGEL, New York , New York (**Judd Burstein** , New York , New York , Graham Hughes , New ...

119. A United States v. Koreh

United States Court of Appeals for the Third Circuit | Jul 06, 1995 | 59 F.3d 431

Overview: Appellant's naturalization under the Displaced Persons Act was revoked because his position as an editor of a newspaper that wrote anti-Semitic articles during World War II in Hungary constituted advocacy and assistance in the persecution of Jews.

... being the editor of a newspaper that wrote anti-Semitic articles. Affirmed **Judd Burstein** (Argued), New York , New York 10022, Attorney for Appellant. Susan ...

120. A Lo Duca v. United States

United States District Court for the Eastern District of New York | Jul 07, 1995 | 1995 U.S. Dist. LEXIS 21155

Overview: A defendant extradited to the United States for drug crimes committed in a foreign country was not entitled to a writ of habeas corpus because the supporting evidence complied with an extradition treaty and there was probable cause to extradite.

... James R. Froccaro , Esq., Port Washington , NY . **Judd Burstein** , Esq., Marc Fernich , New York , NY

121. A HBE Leasing Corp. v. Frank

United States Court of Appeals for the Second Circuit | Aug 07, 1995 | 61 F.3d 1054

Overview: Certain conveyances of property by individual who was subject of judgment proceedings were voidable transfers where property by judgment debtor was fraudulently conveyed as proof of fair consideration was lacking.

... S. Pitkin Marshall , New York , NY for Plaintiffs-Appellees-Cross-Appellants. **Judd Burstein** , New York , NY (Marc Fernich , ...

122. A United States v. Ward

United States District Court for the Northern District of Illinois, Eastern Division | Aug 08, 1995 | 895 F. Supp. 1000

Overview: The anti-contact rule did and should not apply to pre-indictment, non-custodial contacts by prosecutors or undercover informants.

... Grippo & Elden , Chicago , IL. Judd Burstein , Attorney at Law, New York , NY . U. S. ...

123. A United States v. Koreh

United States Court of Appeals for the Third Circuit | Aug 29, 1995 | 1995 U.S. App. LEXIS 24509 ... Office of Special Investigations, Washington, DC . For FERENC KOREH, Appellant: **Judd Burstein** , New York , NY . Present: SLOVITER , Chief Judge, ...

United States District Court for the Southern District of New York | Sep 25, 1995 | 898 F. Supp. 1076

Overview: A vice president's motion to dismiss a shareholder's civil RICO claims was denied because the vice president regularly and continually directed employees to mail fraudulent invoices to factors that the company financed its operations through.

... The shareholder's motion for leave to amend his complaint was granted. **JUDD BURSTEIN**, P.C., Attorneys for Plaintiff Peter Brooke, By: **Judd Burstein**, Esq., Joshua F. Scheier, Esq., ...

125. • United States v. Bahna

United States Court of Appeals for the Second Circuit | Oct 05, 1995 | 68 F.3d 19

Overview: Conviction for conspiring and attempting to possess with intent to distribute cocaine was proper because the court found no prejudicial error that would have entitled defendant to another trial; testimony by coconspirator was properly admitted.

... New York , Brooklyn, New York , of counsel), for Appellee. **JUDD BURSTEIN** , New York , New York (Kim P. Bonstrom...

United States District Court for the Eastern District of New York | Dec 04, 1995 | 1995 U.S. Dist. LEXIS 20855

Overview: A defendant's petition for a writ of habeas corpus was denied because the defendant failed to overcome the presumption that the conduct of his counsel fell within the wide range of professional assistance.

... Petition for writ of habeas corpus denied. APPEARANCES: For Petitioner: **JUDD BURSTEIN**, ESQ., New York, New York. For Respondent: ...

127. • United States v. Trupin

United States District Court for the Southern District of New York | Feb 07, 1996 | 1996 U.S. Dist. LEXIS 1293

Overview: A statute was a constitutional exercise of Congress's power to regulate interstate commerce where it contained an express jurisdictional element that ensured that the possession of stolen goods was substantially related to interstate commerce.

... Esq., of counsel, Attorney for the United States of America. **Judd Burstein**, P.C., 99 Park Avenue, New York, New York 10016, **Judd Burstein**, Esq., of counsel, Attorneys for Defendant. ...

128. A Wachtel v. Coopers & Lybrand

Supreme Court of New York, Appellate Division, First Department | May 09, 1996 | 227 A.D.2d 187 ... App. Div. LEXIS 4951 May 9, 1996, Decided For Plaintiff-Appellant: **Judd Burstein**. For Defendant-Respondent: Stephen Rackow Kaye. Concur-- Murphy, P. ...

129. 💶 <u>Pohlot v. Pohlot</u>

Supreme Court of New York, Appellate Division, Second Department | Jun 10, 1996 | 228 A.D.2d 484

Overview: A father's complaint for recission of a settlement agreement failed to state a cause of action because the oral stipulation that the wife had allegedly breached had not been incorporated into the written agreement that the husband had signed.

... further, ORDERED that the defendant is awarded one bill of costs. **Judd Burstein** , P.C., New York , N.Y. (Robert N. Fass and ...

130. A Big Apple Food Vendors' Ass'n v. City of New York

Supreme Court of New York, Appellate Division, First Department | Jun 18, 1996 | 228 A.D.2d 282

Overview: A law prohibiting a single entity from holding multiple food vending permits was a reasonable exercise of police power because it was rationally related to a city's interests in preventing illegal trafficking in the number of permits available.

... affirmed the summary judgment entered in favor of defendants. For Plaintiffs-Appellants: **Judd Burstein**, Thomas R. Newman. For Defendants-Respondents: Elaine R. Witkoff . Concur-- ...

131. 💠 <u>United States v. Reiners</u>

United States District Court for the Eastern District of Virginia | Jun 26, 1996 | 934 F. Supp. 721

Overview: In a bank fraud case, certain records obtained by a grand jury subpoena were not "matters occurring before the grand jury," under either a "purpose" or a "practical consequences" test, so as to prohibit disclosure to a victim bank under Fed. R. Crim. P. 6(e). The court would not compel disclosure as the bank had not shown a right to the records.

... Alexandria, Virginia. For Ruffo and CCS, Inc. : **Judd Burstein**, Esquire, Burstein & Fass, LLP, New York, ...

132. United States v. Gigante

United States Court of Appeals for the Second Circuit | Aug 26, 1996 | 94 F.3d 53

Overview: Although proof of unconvicted conduct by a preponderance of the evidence was a sufficient basis for an adjustment to or upward departure from a sentence level, defendants' departures were actually based on overwhelming evidence.

... defendants' sentence levels as contemplated by the U.S. Sentencing Guidelines Manual. **Judd Burstein**, Marc Fernich , **Judd Burstein**, P.C. , New York , New York...

133. A Lo Duca v. United States

United States Court of Appeals for the Second Circuit | Aug 29, 1996 | 1996 U.S. App. LEXIS 28746

Overview: Dismissal of Italian citizen's petition for a writ of habeas corpus challenging extradition certification was proper where the United States extradition statute did not violate the doctrine of separation of powers.

... Matthew J. Herrington , Williams & Connolly , Washington, D.C. ; **Judd Burstein** , Robert N. Fass , Marc Fernich , New York...

134. A Kerzner v. Kerzner

Supreme Court of New York, New York County | Dec 04, 1996 | 170 Misc. 2d 1006

Overview: The wife was entitled to \$21,000 per month in spousal maintenance from the husband for eight years because of the parties' prior affluent lifestyle and the husband's history of nondisclosure of income.

... Burstein & Fass, L. L. P. , New York City (**Judd Burstein** of counsel), for plaintiff. Dornbush Mensch Mandelstam & Schaeffer, L. L. ...

135. A Big Apple Car v. City of New York

Supreme Court of New York, Appellate Division, First Department | Dec 17, 1996 | 234 A.D.2d 136

Overview: In an action arising from terminated contracts, a party could not maintain causes of action for breach of contract and simultaneously pursue causes of action for fraud in the inducement to enter into those contracts.

... fraud in the inducement to enter into those contracts. For Plaintiff-Respondent: **Judd Burstein** . For Defendants-Appellants: Mordecai Newman . Concur-- Sullivan, J. P. , ...

136. A Global Discount Travel Servs., LLC v. TWA

United States District Court for the Southern District of New York | Mar 24, 1997 | 960 F. Supp. 701

Overview: Plaintiff's Sherman and Lanham Acts claims did not state causes of action, because the antitrust claim required definition of relevant product market and the false representations claim required interpretation of the contract.

 \dots New York , New York . BURSTEIN & FASS LLP , Judd Burstein , Esq., New York , New York , Attorneys for Plaintiff \dots

137. 🛕 United States v. Zagari

United States Court of Appeals for the Second Circuit | Apr 17, 1997 | 111 F.3d 307

Overview: An appeals court remanded for recalculation of defendant's sentence because sentencing court's use of November 1989 Sentencing Guidelines to sentence defendant for conduct which ended in October 1989 violated the Ex Post Facto Clause.

... Post Facto Clause . Convictions affirmed; both sentences remanded for recalculation. **Judd Burstein** , New York , NY (Marc Fernich , ...

138. • United States v. Malpeso

United States Court of Appeals for the Second Circuit | Jun 03, 1997 | 115 F.3d 155

Overview: Defendants were properly convicted of various federal criminal offenses because the district court did not abuse its discretion in excluding irrelevant or prejudicial evidence, and any error was harmless and did not affect their substantial rights.

... affect defendants' substantial rights. Defendants' remaining claims were also dismissed. Affirmed. **JUDD BURSTEIN**, Burstein & Fass LLP, New York, NY...

139. A United States v. Trupin

United States Court of Appeals for the Second Circuit | Jun 27, 1997 | 117 F.3d 678

Overview: Statute criminalizing possession of stolen goods lawfully included intrastate acts as an essential part of larger regulation of economic activity, in which the regulatory scheme could have been undercut unless the intrastate activity were regulated.

... and that the trial court properly applied the sentencing guidelines. Affirmed. **Judd Burstein**, New York, NY (Sabrina P. Shroff, Burstein ...

140. A <u>United States v. Private Sanitation Indus. Ass'n</u>

United States District Court for the Eastern District of New York | Sep 30, 1997 | 1997 U.S. Dist. LEXIS 16239

Overview: The United States was entitled to summary judgment in its civil RICO action against defendants who were engaged in the solid waste disposal industry because defendants had "participated" in a racketeering "enterprise" within the meaning of RICO.

... TWA CARTING CORP., ACE GARBAGE & RUBBISH REMOVAL, INC. , defendants: **Judd Burstein** , Esq. For JOHN ALLEN, SARAH ALLEN, DANIEL FINLEY ALLEN CO., ...

141. A United States v. Private Sanitation Indus. Ass'n

United States District Court for the Eastern District of New York | Sep 30, 1997 | 1997 U.S. Dist. LEXIS 16240

Overview: In RICO suit against garbage carting business and its operators who were alleged to have participated in associations' bribery of town employees to reduce dumping costs, government was granted summary judgment. Coercion defense was not substantiated.

... TWA CARTING CORP., ACE GARBAGE & RUBBISH REMOVAL, INC. , defendants: **Judd Burstein** , Esq. For JOHN ALLEN, SARAH ALLEN, DANIEL FINLEY ALLEN CO., ...

142. A Orseck v. Shemesh

Supreme Court of New York, Appellate Division, Third Department | Oct 09, 1997 | 243 A.D.2d 790

Overview: New York courts lacked in rem jurisdiction to enforce New York attorneys' charging lien against funds held in escrow out-of-state, but did have jurisdiction to require payment from settlement proceeds distributed to the client, who lived in New York.

... 1, 1996 is affirmed, without costs. Burstein & Fass LLP (**Judd Burstein** of counsel), New York City , for appellant. Gerald Orseck , ...

143. A United States v. Spencer

United States Court of Appeals for the Second Circuit | Oct 30, 1997 | 129 F.3d 246

Overview: Sufficient evidence existed to warrant bankruptcy fraud and conspiracy convictions, and trial court correctly applied sentencing guidelines against defendant.

... to warrant convictions and trial court properly applied sentencing guidelines. Affirmed. **JUDD BURSTEIN** , Burstein & Fass LLP , New York , New York ...

144. • McCarthy v. Johnson

United States District Court for the District of Utah, Central Division | Nov 21, 1997 | 35 F. Supp. 2d 846

Overview: Motion to renew money judgment against defendant was granted where, under Fed. R. Civ. P. 69(a), process to enforce plaintiff's judgment was governed by Utah law and, although there was no Utah

statute governing renewal of judgments, reasoning in Utah court decision would permit procedure followed by plaintiff and would not require new action.

... D. Ronnow , Esq., Salt Lake City, UT . For Defendants: **Judd Burstein** , Esq., Robert n. Fass , Esq., New York City, NY ...

145. A Buti v. Impressa Perosa, S.R.L.

United States Court of Appeals for the Second Circuit | Feb 24, 1998 | 139 F.3d 98

Overview: Defendant's promotion of his restaurant in the U.S. was insufficient to satisfy the standard for a trademark's use in commerce, since the restaurant services associated with that promotion were provided solely in Italy.

... J. Tolchin , Jaroslawicz & Jaros , of counsel), for Defendant-Counter-Claimant-Appellant. **JUDD BURSTEIN** , Burstein & Fass , New York, NY (Samuel I. ...

146. A Botha v. Don King Prods.

United States District Court for the Southern District of New York | Feb 27, 1998 | 1998 U.S. Dist. LEXIS 2228

Overview: The government was not entitled to an order to modify a protective order that sealed the promoter's deposition testimony given in a civil action because there was no showing of a compelling need for the testimony in an upcoming criminal action.

... prejudice. For Government: Meier Feder , AUSA/Christine Chung, AUSA. For Plaintiff: **Judd Burstein** , Esq. For Defendant and Intervener Don King: Peter Fleming, Esq., ...

147. A United States v. Harpaul

United States District Court for the Eastern District of New York | Apr 27, 1998 | 4 F. Supp. 2d 137

Overview: The government was ordered to submit the reasons for its refusal to perform its part of the cooperation agreements entered by the defendants where the court was unable to determine on the record whether the government acted in good faith.

... New York , New York . For Sewdutt Harpaul, Defendant: **JUDD BURSTEIN** , P.C., LAURIE J. McPHERSON , Esq., New York , New ...

148. A United States v. Abelis

United States Court of Appeals for the Second Circuit | May 29, 1998 | 146 F.3d 73

Overview: Evidence that appellants actively participated in meeting at which extortion took place including typing contract, signing it, and agreeing to safeguard the money was sufficient evidence to support conviction for conspiracy to commit extortion.

... M. FINK , Esq., Brooklyn, NY , for Defendant-Appellant Sergey Ilgner. **JUDD BURSTEIN** , Esq., Burstein & Fass LLP , New York , ...

149. A Karabu Corp. v. Gitner

United States District Court for the Southern District of New York | Aug 03, 1998 | 16 F. Supp. 2d 319

Overview: Bringing an action against out-of-state officers of large, multi-national corporation based upon their title without basis for belief that they personally participated in conduct underlying lawsuit did not confer jurisdiction under agency theory.

... in its entirety. Defendants' motion to dismiss Complaint granted. For Plaintiffs: **Judd Burstein** , BURSTEIN & FASS LLP , New York , NY...

150. A United States v. Allen

United States Court of Appeals for the Second Circuit | Aug 06, 1998 | 155 F.3d 35

Overview: Because the issue of whether defendants were "directing" their enterprises was question of fact for jury to determine, order of summary judgment in favor of government in civil Racketeering Influenced and Corrupt Organization action was improper.

... N.Y. , on the brief), for defendants-appellants John Allen, et al. **Judd Burstein** , New York , N.Y. (Robert N. Fass , ...

151. A United States v. Gluzman

United States Court of Appeals for the Second Circuit | Aug 25, 1998 | 154 F.3d 49

Overview: The Violence Against Women Act was a constitutional exercise of congressional commerce power even though it targeted non-commercial activity unlike any previous federal criminal statute upheld under the commerce clause.

... did not have to be selected from geographically adjacent counties. Affirmed. **JUDD BURSTEIN**, Burstein & Fass, New York, NY, for ...

152. A Don King Prods. v. Chavez

Court of Appeal of Florida, Fourth District | Sep 15, 1998 | 717 So. 2d 1094

Overview: Appellant fight promoter was unsuccessful in contending that a conclusive presumption of irreparable injury should be applied to a breach of contract action, thus entitling appellant to an injunction.

... of Verner, Liipert, Bernard, McPherson and Hand, Miami, and **Judd Burstein** of **Judd Burstein**, P.C., and Jay Goldberg of Jay Goldberg, P.C., ...

153. A Geron v. Schulman (In re Manshul Constr. Corp.)

United States Bankruptcy Court for the Southern District of New York | Sep 25, 1998 | 225 B.R. 41

Overview: Defendants in an adversary proceeding in bankruptcy and a law firm were directed to arbitrate a fee dispute under terms of a retainer agreement; a charging lien was not available to the firm because there was no affirmative recovery by defendants.

- ... the Stipulation, Anderson Kill withdrew as counsel and was replaced by **Judd Burstein**, P.C. (" Burstein ") for all of the Defendants except ...
- ... New York , New York , for Chapter 7 Trustee. **Judd Burstein** , Esq., **JUDD BURSTEIN** , P.C. , New York , New York , for Defendants ...

154. • United States v. Harpaul

United States District Court for the Eastern District of New York | Oct 29, 1998 | 25 F. Supp. 2d 136

Overview: Because defendants' conviction on tax evasion and mail fraud were not of the same general type, the tax evasion and the mail fraud counts could not be grouped together under the sentencing guidelines.

... For Sewdutt Harpaul, also known as "Mike", Defendant: **Judd Burstein**, Esq., Laurie J. McPherson, Esq., Of Counsel, **JUDD BURSTEIN**, P.C., New York, ...

Supreme Court of New York, Appellate Division, First Department | Dec 10, 1998 | 256 A.D.2d 121

Overview: Extension of prenuptial agreement was voidable as it was signed under duress, including threats to take parties' child away from husband if he did not sign agreement, and consultation with attorneys on date of signing did not negate claim of duress.

... in the record. For Plaintiff-Respondent: Jay D. Silverstein . For Defendant-Appellant: **Judd Burstein** . Concur-- Sullivan, J. P. , Milonas , Wallach, Williams and ...

156. A Galvin v. New York Racing Ass'n, Inc.

United States Court of Appeals for the Second Circuit | Dec 23, 1998 | 166 F.3d 1200

 \dots Reindel , New York , New York . Appearing for Appellee: **JUDD BURSTEIN** (Kim Bonstrom , Karen A. Murphy, Bonstrom & Murphy , \dots

157. A Geron v. Schulman (In re Manshul Constr. Corp.)

United States Bankruptcy Court for the Southern District of New York | Jan 11, 1999 | 228 B.R. 532

Overview: Where defendant debtors failed to show their former counsel provided plaintiff trustee with protected confidences, neither plaintiff nor his professionals were disqualified; motions to dismiss, grant protective order, and grant discovery were denied.

... New York , New York , for Chapter 7 Trustee. **Judd Burstein** , Esq., **JUDD BURSTEIN** , P.C. , New York , New York , for Defendants ...

158. • Malpeso v. Burstein & Fass

Supreme Court of New York, Appellate Division, First Department | Jan 19, 1999 | 257 A.D.2d 476

... (2d Cir. N.Y., 1997) For Plaintiff-Appellant: Gina-Marie Reitano . For Defendants-Respondents: **Judd Burstein** . Concur--Williams, J. P., Wallach , Andrias and ...

159. A McCarthy v. Johnson

United States Court of Appeals for the Tenth Circuit | Feb 03, 1999 | 1999 U.S. App. LEXIS 1519

Overview: Renewal of a judgment could be accomplished by filing a motion in the original action, so long as the opposing party was provided with notice.

... N. Fass , Burstein & Fass , New York, NY . **Judd Burstein** , Burstein, McPherson & Bonstrom LLP , New York, NY

160. A Moy v. Terranova

United States District Court for the Eastern District of New York | Mar 02, 1999 | 1999 U.S. Dist. LEXIS 23552

... NY . For Albert A. Terranova and Melany K. Terranova, Defendants: **Judd Burstein** , Esq., BURSTEIN & FASS LLP , New York , ...

161. A United States v. Morelli

United States Court of Appeals for the Third Circuit | Mar 09, 1999 | 169 F.3d 798

Overview: Money in each series of transactions in "daisy chain" were proceeds of wire fraud because fraud from which it resulted was prompted by wire transfers within preceding series of transactions; thus, defendants' convictions for wire fraud were affirmed.

... the fraud. Thus, defendants' convictions for wire fraud were affirmed. Affirmed. **JUDD BURSTEIN**, ESQUIRE (ARGUED), MARC FERNICH, ESQUIRE, Burstein & Fass LLP ...

162. A Soares v. United States

United States District Court for the Eastern District of New York | Mar 22, 1999 | 66 F. Supp. 2d 391

Overview: Petitioner's habeas petition denied; claims were procedurally barred for failure to raise them on direct appeal, petitioner did not show that appellate counsel was ineffective, and claims of prosecutorial misconduct were without merit.

- ... open court in the presence of Soares and his newly-retained counsel, **Judd Burstein** . On June 11, 1991, Assistant United States Attorneys Robert Biddle ...
- ... cocaine with intent to distribute it. Soares, however, now represented by **Judd Burstein**, was retried in March 1994 before then Chief Judge Thomas ...
- ... and on appeal do not satisfy the strict criteria of Strickland. **Judd Burstein** is a talented and conscientious advocate who appears regularly in the ...

163. A Revson v. Cinque & Cinque, P.C.

United States District Court for the Southern District of New York | May 03, 1999 | 1999 U.S. Dist. LEXIS 6369

Overview: An understanding that plaintiff would pay, in addition to time spent, 10 percent of whatever she recovered as a result of defendant law firm's efforts was unenforceable as a contingency fee, because it was not in writing.

- ... in limine granted in part and denied in part. For Plaintiff: **Judd Burstein** , Esq., Laurie J. McPherson , Esq., BURSTEIN & McPHERSON LLP ...
- ... into evidence of the letter of December 14, 1997 written by **Judd Burstein** to Robert Cinque . In the letter, Burstein wrote the following: ...

164. A Revson v. Cinque & Cinque, P.C.

United States District Court for the Southern District of New York | May 25, 1999 | 49 F. Supp. 2d 686

Overview: Citing its duty to address improper tactics, the court sua sponte ordered a party and her counsel to show cause why sanctions should not be imposed for their use of tactics designed to hurt defendant and multiply proceedings.

- ... conduct in these proceedings. Accordingly, plaintiff Rommy Revson and her attorney **Judd Burstein**, Esq., are hereby ORDERED TO SHOW CAUSE why sanctions should ...
- ... a duty and responsibility to address their improper tactics. For Plaintiff: **Judd Burstein** , Esq., Laurie J. McPherson , Esq., BURSTEIN & McPHERSON LLP ...
- ... largely, I suspect, because Ms. Revson turned to her current counsel, **Judd Burstein**, Esq. Mr. Burstein engaged in what can only be described ...

165. Skolnick v. Skolnick

Supreme Court of New York, Appellate Division, Second Department | Jun 07, 1999 | 262 A.D.2d 395

Overview: Ex-husband was allowed to offset child support obligation for education costs through a tuition benefit program offered by his employer because the tuition benefit was not a scholarship or a stipend under a marital separation agreement.

... Burstein McPherson & Bronstrom, LLP, New York, N.Y. (**Judd Burstein** and Peter B. Schalk of counsel), for appellant. Dikman & Dikman ...

166. A Revson v. Cinque & Cinque, P.C.

United States District Court for the Southern District of New York | Jun 10, 1999 | 1999 U.S. Dist. LEXIS 8842

Overview: The jury verdict that awarded an upward adjustment to defendant for unpaid time charges was fair and reasonably supported by the evidence, thus the court denied plaintiff's motion for judgment as a matter of law.

... Revson's motion for judgment as matter of law denied. For Plaintiff: **Judd Burstein** , Esq., Laurie J. McPherson , Esq., BURSTEIN & McPHERSON LLP ...

167. A United States v. Galpine

United States Court of Appeals for the Second Circuit | Jun 11, 1999 | 1999 U.S. App. LEXIS 19611

Overview: Defendant was not entitled to introduce evidence supporting its defense theory because there was no factual support.

... New York , NY . APPEARING FOR APPELLANT BURTON KAPLAN: **Judd Burstein** , New York , NY . APPEARING FOR APPELLEE UNITED STATES ...

168. A Glick v. United States

United States Court of Appeals for the Second Circuit | Jun 23, 1999 | 182 F.3d 899

Overview: Where no basis existed on which to disturb a trial court's factual finding that no misdemeanor plea was offered to prisoner's counsel, denial of amended petition asserting ineffective assistance claim based on failure to inform of plea was proper.

... to purported misdemeanor and felony plea offers. AFFIRMED. APPEARING FOR APPELLANT: **JUDD BURSTEIN**, New York, NY (Marc Fernich, of counsel). ...

169. **1** Kerzner v. Kerzner

Supreme Court of New York, Appellate Division, First Department | Aug 12, 1999 | 264 A.D.2d 338

Overview: Court affirmed trial judgment, holding that defendant attempted to minimize his worth by causing a post-commencement falloff of his business, and plaintiff was properly sanctioned for willful refusal to obey the court's disclosure orders.

... Plaintiff-Appellant: Pro Se. For Defendant-Respondent: Michael L. Paikin . For Plaintiff-Respondent: **Judd Burstein** . For Defendant-Appellant: Michael L. Paikin . Concur-- Mazzarelli, J. P. ...

170. A TWA, Inc. v. Karabu Corp.

Court of Appeals of Missouri, Eastern District, Division Three \mid Sep 07, 1999 \mid 999 S.W.2d 753

... Michael D. Hart, St. Louis, MO, Judd Burstein, Burstein & McPherson, LLP, New York, NY, ...

171. Revson v. Cinque & Cinque, P.C.

United States District Court for the Southern District of New York | Nov 22, 1999 | 70 F. Supp. 2d 415

Overview: Where plaintiff's counsel engaged in conduct for improper purposes in a dispute over attorney fees, the court sanctioned him, requiring him to pay \$50,000 to the defendant law firm.

- ... for all purposes (including the L&N arbitration), and replace you with **Judd Burstein** and the firm of Burstein & Fass LLP
- ... SILVERBERG, P.C., New York, New York, for **Judd Burstein**, Esq., Respondent. MARC FERNICH, Esq., New York, New ...
- ... 935355, at *18 (2d Cir. 1999). Here, the conduct of **Judd Burstein**, Esq., counsel for plaintiff Rommy Revson, was clearly and unmistakably ...

172. Skolnick v. Skolnick

Supreme Court of New York, Appellate Division, Second Department | Apr 03, 2000 | 271 A.D.2d 431

Overview: Where parties' separation agreement stated each was to pay one-half of children's college expenses, plaintiff was required to pay one-half of children's telephone expenses, but not summer educational program abroad.

... Burstein & McPherson, LLP , New York , N.Y. (**Judd Burstein** and Peter B. Schalk of counsel), for appellant. ...

173. • Norris v. Don King Prods., Inc.

Supreme Court of New York, Appellate Division, First Department | Apr 27, 2000 | 271 A.D.2d 377

Overview: Summary judgment in favor of boxer was reversed, since the question of what location the parties intended for the boxing match presented an issue of fact that precluded summary determination.

... presented an issue of fact that precluded summary determination. For Plaintiff-Respondent: **Judd Burstein** . For Defendants-Appellants: Peter Fleming Jr. Concur--Tom, J. P., Ellerin, Wallach, ...

174. A Designs by Skaffles, Inc. v. New L&N Sales & Mktg., Inc.

United States District Court for the Southern District of New York | May 18, 2000 | 2000 U.S. Dist. LEXIS 8682

- ... For DESIGN BY SKAFFLES, INC., counter-defendant: **JUDD BURSTEIN**, Burstein & Fass, LLP, **Judd Burstein**, Burstein, McPherson & Bonstrom L.L.P., ...
- ... For DESIGN BY SKAFFLES, INC., plaintiff: **JUDD BURSTEIN**, Burstein & Fass, LLP, **Judd Burstein**, Burstein, McPherson & Bonstrom L.L.P., ...

175. I PSI Int'l, Inc. v. Ottimo

Supreme Court of New York, Appellate Division, First Department | May 30, 2000 | 272 A.D.2d 279

Overview: Plaintiff's suit against defendants for breach of an oral agreement to extend credit was dismissed, because defendants showed that the contract was with defendants' corporations and not themselves.

... the contract was with defendants' corporations and not themselves. For Plaintiff-Appellant: **Judd Burstein** . For Defendants-Respondents: Robert W. Resnick. Concur--Wallach, J. P., ...

176. **1** <u>Drasner v. Drasner</u>

Supreme Court of New York, Appellate Division, First Department | Jun 20, 2000 | 273 A.D.2d 131

... Entered For Plaintiff-Appellant: John J. Witmeyer III . For Defendant-Respondent: **Judd Burstein**. Concur--Williams, J. P., Tom, Rubin and Andrias , JJ. ...

177. A Revson v. Claire's Stores, Inc.

United States District Court for the Southern District of New York | Jun 20, 2000 | 2000 U.S. Dist. LEXIS 9550

- ... Decided June 21, 2000 , Filed For ROMMY REVSON, plaintiff: **Judd Burstein** , Burstein & McPherson L.L.P. , New York , NY...
- ... New York , NY . For ROMMY REVSON, counter-defendant: **Judd Burstein** , Burstein & McPherson L.L.P. , New York , NY...

178. A Revson v. Cinque & Cinque

United States Court of Appeals for the Second Circuit | Aug 04, 2000 | 221 F.3d 71

Overview: Attorney's conduct was not sanctionable, where some of his client's claims of fraud were colorable, and he apologized repeatedly for inappropriate language in a letter to client's former attorney, so sanctions were reversed.

- ... the reasonable value of legal services, and (2) ordering Revson's attorney **Judd Burstein** to pay Cinque & Cinque sanctions in the amount of \$...
- ... ROMMY REVSON, Plaintiff-Counterclaim-Defendant-Appellant, **JUDD BURSTEIN**, Appellant, v.- CINQUE & CINQUE, P.C., Defendant-Counterclaimant-Appellee. Revson ...
- \dots part. BURSTEIN & McPHERSON , New York , New York (**Judd Burstein** , Benjamin J. Stone, New York , New York , of \dots
- ... purposes (including the L & N arbitration), and replace you with **Judd Burstein** and the firm of Burstein & Fass LLP

179. A Revson v. Cinque & Cinque, P.C.

United States Court of Appeals for the Second Circuit | Aug 04, 2000 | 221 F.3d 59

Overview: Judgment ordering client to pay counsel for legal services rendered was reversed where the district court refused to instruct that counsel had the burden of proving the party's mutual understanding of its retainer agreement.

- ... Present Action After an exchange of letters between Revson's new attorney **Judd Burstein** and Cinque on Monday December 15, Revson commenced the present action ...
- ... burden at trial. Affirmed in part, vacated and remanded in part. **JUDD BURSTEIN**, New York, New York (Benjamin J. Stone...
- ... purposes (including the L & N arbitration), and replace you with **Judd Burstein** and the firm of Burstein & Fass LLP

180. A Geron v. Schulman (In re Manshul Constr. Corp.)

United States District Court for the Southern District of New York | Aug 29, 2000 | 2000 U.S. Dist. LEXIS 12576

Overview: Bankruptcy trustee could recover assets of debtor, fraudulently transferred to defraud debtor's creditors, from transferees who gave no consideration or reasonably equivalent value for the transferred assets.

... New York . For all Defendants other than Nancy Schulman : **Judd Burstein** , Daniel Wallach , Burstein & McPherson LLP , New York ...

181. A Revson v. Claire's Stores, Inc.

United States District Court for the Southern District of New York | Oct 30, 2000 | 120 F. Supp. 2d 322

Overview: Transfer of venue granted for the convenience of the parties; summary judgment granted dismissing plaintiff's oral contract claim and dismissing defendants' failure of patentability affirmative defense.

... and plaintiff's motion to strike defendants' third affirmative defense both granted. **Judd Burstein** , Laurie J. McPherson , Daniel L. Wallach , BURSTEIN & ...

United States District Court for the Southern District of New York | Dec 07, 2000 | 124 F. Supp. 2d 171

Overview: A prisoner was denied habeas corpus relief where she failed to prove that the strategical and tactical decisions of her trial counsel were defective or that her trial counsel's alleged errors deprived her of a fair trial.

... represented by Mr. Hochheiser , Mr. Rosen, as well as by **Judd Burstein** , Esq. Her conviction was affirmed in August 1998. United States ...

183. Designs by Skaffles, Inc. v. New L&N Sales & Mktg., Inc.

United States District Court for the Southern District of New York | Feb 13, 2001 | 2001 U.S. Dist. LEXIS 1325

... For DESIGN BY SKAFFLES, INC., counter-defendant: **JUDD BURSTEIN**, Burstein & Fass, LLP, NEW YORK, NY. For DESIGN BY SKAFFLES, INC., counter-defendant: **Judd Burstein**, ...

... For DESIGN BY SKAFFLES, INC., plaintiff: **JUDD BURSTEIN**, Burstein & Fass, LLP, NEW YORK, NY. For DESIGN BY SKAFFLES, INC., plaintiff: **Judd Burstein**, ...

184. A Lewis v. Rahman

United States District Court for the Southern District of New York | Jun 27, 2001 | 147 F. Supp. 2d 225

Overview: Plaintiff boxer's injunction, requiring a rematch, was granted because he would have been irreparably harmed if denied the opportunity to regain the championship title lost to defendant in the initial fight.

... request for injunctive relief denied. For Lennox Lewis, Plaintiff: **Judd Burstein**, Peter Schalk, **JUDD BURSTEIN**, P.C., New York, New York...

185. A F & K Supply Inc. v. Willowbrook Dev. Co.

Supreme Court of New York, Appellate Division, Third Department | Nov 21, 2001 | 288 A.D.2d 713

Overview: Agreement which purportedly settled 15 lawsuits between family members was vague and unenforceable because it did not clearly delineate parties' obligations or resolve issue of whether it bound only parties who signed it.

... Katzman of counsel), Troy, for appellants. Burstein & McPherson L.L.P. (**Judd Burstein** of counsel), and Jay Goldberg P.C. (Jay Goldberg of counsel), ...

186. I SHEMESH v. BURSTEIN

Supreme Court of New York, Appellate Term, First Department | Dec 14, 2001 | 2001 N.Y. Misc. LEXIS 996 ... LORIT SHEMESH AND VIVIAN KLEINERMAN, Plaintiffs-Appellants, v. **JUDD BURSTEIN**, P.C., Defendant-Respondent. Action 1; **JUDD BURSTEIN**, Plaintiff-Respondent, v. LORIT SHEMESH AND VIVIAN KLEINERMAN, Defendants-Appellants. Action 2. ...

187. A Panix Promotions, Ltd. v. Lewis

United States District Court for the Southern District of New York | Jan 15, 2002 | 2002 U.S. Dist. LEXIS 784

Overview: Boxer was able to present enough elements of a RICO claim to survive dismissal against the promoters' wholly owned production company and for the acts of the promoters with regard to the production company.

- ... C. English , Clifton , NJ . For LENNOX LEWIS, counter-claimant: **Judd Burstein**, **Judd Burstein** , P.C., New York, NY . For NEW JERSEY SPORTS PRODUCTIONS, ...
- ... Goldberg, P.C. , New York, NY . For LENNOX LEWIS, defendant: **Judd Burstein**, **Judd Burstein** , P.C., New York, NY . For NEW JERSEY SPORTS PRODUCTIONS, ...
- ... English, Clifton, NJ. For LENNOX LEWIS, third-party plaintiff: **Judd Burstein**, **Judd Burstein**, P.C., New York, NY. For NEW JERSEY SPORTS PRODUCTIONS, ...

188. Panix Promotions, Ltd. v. Lewis

United States District Court for the Southern District of New York | Jan 18, 2002 | 2002 U.S. Dist. LEXIS 7176

Overview: An action for money had and received was derived from an implied contract, and a contract could not be implied in fact where there was an express contract covering the subject matter involved.

- ... And English , Clifton , NJ . For LENNOX LEWIS, counter-claimant: **Judd Burstein**, **Judd Burstein** , P.C., New York , NY . For NEW JERSEY SPORTS ...
- ... P.C. , New York , NY . For LENNOX LEWIS, defendant: **Judd Burstein**, **Judd Burstein** , P.C., New York , NY . For NEW JERSEY SPORTS ...
- ... English , Clifton , NJ . For LENNOX LEWIS, third-party plaintiff: **Judd Burstein**, **Judd Burstein** , P.C., New York , NY . For NEW JERSEY SPORTS ...

189. <u>Hirschfeld v. Hirschfeld</u>

Supreme Court of New York, Appellate Division, First Department | Feb 19, 2002 | 291 A.D.2d 286 19, 2002, Decided February 19, 2002, Entered For Plaintiff-Appellant: **Judd Burstein**. Concur-Nardelli, J.P., Mazzarelli, Lerner, Buckley, JJ. Order, Supreme ...

190. A DiBella v. Hopkins

United States District Court for the Southern District of New York | Mar 06, 2002 | 187 F. Supp. 2d 192

Overview: Where the boxing advisor alleged that the professional boxer defamed him by making factual statements accusing him of fraud and dishonesty in the boxing advisor's profession, trade, and business, the boxing advisor stated a claim for defamation.

... plaintiffs' cross-motion for leave to amend the first amended complaint granted. **Judd Burstein**, Esq., Peter B. Schalk, Esq., **JUDD BURSTEIN**, P.C., New York, New York...

191. • People v. Svanberg

Supreme Court of New York, Appellate Division, Second Department | Apr 08, 2002 | 293 A.D.2d 555 ... in the second degree, upon a jury verdict, and imposing sentence. **Judd Burstein**, P.C., New York,

N.Y. (Debra A. Karlstein of ...

192. A People v. Fu Chen

Supreme Court of New York, Appellate Division, First Department | Apr 18, 2002 | 293 A.D.2d 362

Overview: Summary denial of motion to vacate judgment based on ineffective assistance was proper where defendant's moving papers failed to show issue to be resolved by hearing and lacked affirmation from trial counsel explaining her strategic decisions.

... and subsequent order. For Respondent: Michael S. Morgan . For Defendant-Appellant: **Judd Burstein** . Concur-- Tom , J.P., Andrias , Buckley , Wallach, Lerner, ...

193. Chao v. Ladies Apparel Group, Ltd.

United States District Court for the Southern District of New York | May 28, 2002 | 2002 U.S. Dist. LEXIS 10078

Overview: The Secretary of Labor was entitled to a preliminary injunction against a garment manufacturer's production manager for violations of the Fair Labor Standards Act of 1938's "hot goods" provision.

- ... Clifton , NJ . For LENNOX LEWIS , counter-claimant: **Judd Burstein** , **Judd Burstein** , P.C., New York , NY . For NEW JERSEY SPORTS ...
- ... New York , NY . For LENNOX LEWIS , defendant: **Judd Burstein** , P.C., New York , NY . For NEW JERSEY SPORTS ...
- ... Clifton , NJ . For LENNOX LEWIS , third-party plaintiff: **Judd Burstein** , **P.C.**, New York , NY . For NEW JERSEY SPORTS ...

194. Panix Promotions, Ltd. v. Lewis

United States District Court for the Southern District of New York | Jun 03, 2002 | 2002 U.S. Dist. LEXIS 10068

Overview: Fact that heavyweight boxing champion was not awarded damages on his breach of contract counterclaim against boxing promoters but found the promoters liable for breach of fiduciary duty and RICO violations did not render jury verdict inconsistent.

- ... NJ . For LENNOX LEWIS, third-party plaintiff: **Judd Burstein**, **Judd Burstein**, P.C., New York, NY . For LENNOX LEWIS, counter-claimant: **Judd Burstein**, **Judd Burstein**, P.C., New York, P.C., New York, NY . For LENNOX LEWIS, defendant: **Judd Burstein**, **Judd Burstein**, P.C., New York, NY . For NEW JERSEY SPORTS ...

United States Court of Appeals for the Second Circuit | Jul 02, 2002 | 43 Fed. Appx. 408

Overview: Judgment for defendants was affirmed in plaintiffs' suit alleging trademark infringement. District court properly concluded that defendants owned relevant rights to use decedent's name and applying licensee estoppel would have been inequitable.

... The judgment of the district court was affirmed. FOR PLAINTIFFS-APPELLANTS: **JUDD BURSTEIN** (Sanjit Shah, of counsel), **Judd Burstein**, P.C., New York, NY. FOR DEFENDANTS-APPELLEES: KATHERINE B. ...

196. Martha Graham Sch. & Dance Found., Inc. v. Martha Graham Ctr. of Contemporary Dance, Inc.

United States District Court for the Southern District of New York | Aug 23, 2002 | 224 F. Supp. 2d 567

Overview: Many dances created by the dancer while she was the school's employee were works made for hire; the tools for the choreographic works were provided by the schools and the schools obtained funding for the creation and performance of the dances.

... recover from sale of their property plus prejudgment interest. For Plaintiffs: **Judd Burstein**, Esq., Sanjit Shah, Esq., Lara Ott, Esq., **JUDD BURSTEIN**, P.C., New York, ...

197. A Main Events Prods. v. Lacy

United States District Court for the District of New Jersey | Sep 12, 2002 | 220 F. Supp. 2d 353

Overview: An attorney should not have been disqualified from participating as counsel for two companies because Model Rule upon which defendant relied applied when the attorney was acting as an advocate at trial; Rule did not apply to pre-trial proceedings.

... Newark, New Jersey , for Jeff Lacy, Defendant. **Judd Burstein** , Esq., **JUDD BURSTEIN** , P.C. , New York, New York , for Jeff Lacy, ...

198. A Martha Graham Sch. & Dance Found., Inc. v. Martha Graham Ctr. of Contemporary Dance, Inc.

United States District Court for the Southern District of New York | Sep 13, 2002 | 2002 U.S. Dist. LEXIS 17085

- ... LEXIS 15761 (S.D.N.Y., 2002) For Martha Graham Trust, Ronald Protas, PLAINTIFFS: **Judd Burstein**, Burstein & McPherson, LLP, New York NY ...
- ... New York, NY USA. For Martha Graham Trust, Ronald Protas, COUNTER-DEFENDANTS: **Judd Burstein**, Burstein & McPherson, LLP, New York NY USA. ...

199. A DiBella v. Hopkins

United States District Court for the Southern District of New York | Oct 16, 2002 | 2002 U.S. Dist. LEXIS 19844

Overview: A litigant's motion for summary judgment was denied as premature because it was filed before the parties had completed discovery and before the opposing party had taken the litigant's deposition and because issues of fact existed.

... Defendant's motion for summary judgment was denied. **Judd Burstein**, Esq., Peter B. Schalk, Esq., **JUDD BURSTEIN**, P.C., New York, New York, for Plaintiffs....

200. A Dibella v. Hopkins

United States District Court for the Southern District of New York | Oct 29, 2002 | 2002 U.S. Dist. LEXIS 20856

Overview: In reviewing motions in limine, the court allowed certain relevant portions of newspaper articles to be admitted. The court denied use of a purported expert that proposed to testify on business ethics because his opinions went to the jury issues.

... Parties' motions in limine granted in part and denied in part. **Judd Burstein** , Esq., Peter B. Schalk , Esq., **JUDD BURSTEIN**, P.C. , New York , New York...

201. A Fisher v. Hopkins

United States District Court for the Southern District of New York | Dec 19, 2002 | 2002 U.S. Dist. LEXIS 24516

... Decided December 23, 2002 , Filed For English "Bouie" Fisher, PLAINTIFF: **Judd Burstein**, **Judd Burstein**, PC, New York , NY USA...

United States District Court for the Southern District of New York | Dec 19, 2002 | 2002 U.S. Dist. LEXIS 24506

Overview: Injunction was denied; promoter's anticipated damages were predominantly monetary in nature, and the potential for any irreparable harm from the boxer's breach during the limited time period pending arbitration of dispute was highly speculative.

... New York , NY , for Star Boxing, Inc. , Plaintiff. **Judd Burstein** , New York , NY , for Antonio Tarver, Defendant. GERARD ...

203. Fisher v. Hopkins

United States District Court for the Southern District of New York | Jan 07, 2003 | 2003 U.S. Dist. LEXIS 307

Overview: Venue for a trainer's action against a boxer was appropriate in New York where two out of three fights had taken place; the balance of conveniences did not strongly favor transferring the case to Philadelphia, the primary training facility location.

... denied. For English "Bouie" Fisher, PLAINTIFF: **Judd Burstein** , **Judd Burstein** , PC, New York, NY USA . CHARLES S. HAIGHT, JR. ...

204. A Martha Graham Sch. & Dance Found. v. Martha Graham Ctr. of Contemporary Dance

United States District Court for the Southern District of New York | Jan 29, 2003 | 2003 U.S. Dist. LEXIS 1323

- ... For RONALD PROTAS, MARTHA GRAHAM SCHOOL AND DANCE FOUNDATION, INC., plaintiffs: **Judd Burstein**, Burstein & McPherson L.L.P., New York, NY...
- ... For MARTHA GRAHAM SCHOOL AND DANCE FOUNDATION, INC., RONALD PROTAS, counter-defendants: **Judd Burstein**, Burstein & McPherson L.L.P., New York, NY...

205. A Lewis v. N.J. Sports Prods.

United States District Court for the Southern District of New York | Mar 10, 2003 | 2003 U.S. Dist. LEXIS 3483

Overview: In a dispute between a boxer and a promoter over whether a contract required the boxer to continue to use the promoter's services, a separate agreement with an arbitration clause was irrelevant and did not require arbitration of the dispute.

- ... arbitration was denied. Defendant's motion to compel arbitration denied. For Plaintiff: **Judd Burstein** , Esq., New York, NY . For Defendant: Samuel Feldman , ...
- ... Agreement (" Third Amendment "), Ex. D to 1/17/03 Declaration of **Judd Burstein**, attorney for Lewis ("Burstein Decl."), at 5 (emphasis added). 2 ...

206. A&G Healthplans v. Nat'l Network Servs.

United States District Court for the Southern District of New York | Mar 12, 2003 | 2003 U.S. Dist. LEXIS 3879

Overview: In a contract and tort action, the networking company asserted counterclaims for, inter alia, a constructive trust, misappropriation and conversion of trade secrets, common law unfair competition, and breach of contract.

... in part.. For A&G Healthplans, Inc, A&G Financial Consultants, Inc, PLAINTIFFS: **Judd Burstein**, Burstein & McPherson LLP, New York, NY...

207. Aaron v. Kavanagh

Supreme Court of New York, Appellate Division, Third Department | Apr 03, 2003 | 304 A.D.2d 890

Overview: In a mandamus proceeding between a business owner and his company, which were opposite parties in 15 consolidated civil actions, the court dismissed the owner and the company's petition to compel recusal of the presiding judge in the civil case.

... (Jay Goldberg of counsel), for Lillian Aaron, respondent. **Judd Burstein** P.C., New York City (**Judd Burstein** of counsel), for Willowbrook Development Company and others, respondents. ...

Supreme Court of New York, Appellate Division, Third Department | Apr 10, 2003 | 304 A.D.2d 918

Overview: Invoices which a son offered to prove that a company owned by his mother owed over \$ 1 million to a business the son purchased from his father were altered or inaccurate, and the trial court's judgment excluding the invoices from evidence was upheld.

... for appellants. Burstein & McPherson L.L.P., New York City (**Judd Burstein** of counsel) and Jay Goldberg P.C., New York City...

209. Panix Prods. v. Lewis

United States District Court for the Southern District of New York | Jul 15, 2003 | 2003 U.S. Dist. LEXIS 11952

Overview: Trial court held that a reasonable intermediate date from which to calculate prejudgment interest for damages for breach of fiduciary duty and fraud was date that professional boxer paid his management company 50 percent of agreed management fees.

... NY USA . For Lennox Lewis, DEFENDANT: **Judd Burstein** , **Judd Burstein** , PC, New York , NY USA. For New Jersey Sports ...

210. A Schindler v. Niche Media Holdings, LLC

Supreme Court of New York, New York County | Sep 25, 2003 | 1 Misc. 3d 713

Overview: A chief executive officer was not enjoined from using limited liability companies' funds for legal defense as board chairman showed no likelihood of success on merits of unauthorized claims or irreparable injury, and consolidation with case of which instant case was dispositive was improper.

... to which he was not entitled in his capacity as CEO. **Judd Burstein** , P.C. , New York City , for plaintiff. Gerald B. ...

211. A Lou Dibella & Dibella Entm't, Inc. v. Hopkins

United States District Court for the Southern District of New York | Sep 30, 2003 | 285 F. Supp. 2d 394

Overview: Judgment of libel was affirmed where a jury's finding that a boxer's published statements were false and that he knew his statements to the reporter were false or at least a reckless disregard for the truth, was well supported by the evidence.

- ... 11, 2000 telephone conversation with DiBella occurred. On cross-examination, DiBella's counsel, **Judd Burstein**, quite properly sought to question Magargee on the time sheet. ...
- ... and new trial denied; motion for amended judgment granted. For Plaintiffs: **Judd Burstein**, Esq., Peter B. Schalk, Esq., **JUDD BURSTEIN**, P.C., New York, New York

212. Aaron v. Aaron

Supreme Court of New York, Appellate Division, Third Department | Dec 04, 2003 | 2 A.D.3d 942

Overview: New York trial court retained supervisory power over an action for partition of partnership assets after dissolution despite entry of a settlement, particularly where there were allegations that settlement had not been honored.

... Syracuse (Alan J. Pierce of counsel), for appellant. **Judd Burstein** P.C., New York City (**Judd Burstein** of counsel), for respondent. Before: ...

213. A Gmurzynska v. Hutton

United States Court of Appeals for the Second Circuit | Jan 13, 2004 | 355 F.3d 206

Overview: Dismissal of German art gallery's action alleging violation of the Lanham Act was affirmed; art experts' opinions and assertions, solicited by art collector or by museum, were not commercial advertising or commercial promotion for American gallery.

... The judgment was affirmed. **Judd Burstein**, New York, NY (Peter B. Schalk, **Judd Burstein**, P.C., of counsel), for Plaintiff-Appellant....

214. A Dani Michaels, Inc. v. Design 2000, N.Y. Ltd.

Supreme Court of New York, Appellate Division, First Department | Feb 19, 2004 | 4 A.D.3d 193

... on motion were same as those excluded at trial. For Plaintiff-Appellant: **Judd Burstein**. For Defendant-Respondent: Jeffrey A. Gangemi . Concur--Nardelli, J.P., Saxe...

215. Panix Promotions v. Lewis

United States District Court for the Southern District of New York | Mar 04, 2004 | 2004 U.S. Dist. LEXIS 3504

Overview: To the extent that an order restricting post-verdict financial transactions was vague, transfers that purportedly violated the order could not be grounds for contempt, but expenditures in excess of spending limits led to a civil contempt finding.

- ... promoted the May 10 fight without the consent of Lewis' attorney, **Judd Burstein** , 9 While the Court finds credible Eliades' assumption that Burstein ...
- ... to appoint a prosecutor were denied. For Lennox Lewis, ThirdParty Plaintiff: **Judd Burstein**, LEAD ATTORNEY, **Judd Burstein**, P.C., New York, NY. For ...

216. A Friedman v. Garey

Supreme Court of New York, Appellate Division, First Department | Jun 17, 2004 | 8 A.D.3d 129

... New York (Mara T. Thorpe of counsel), for appellant. **Judd Burstein** , New York , for respondent. Concur-- Buckley , P.J., ...

217. • Comptroller v. Mayor

Supreme Court of New York, New York County | Jul 29, 2004 | 5 Misc. 3d 190

Overview: The New York City, N.Y., Charter's definition of property as to concessions included intellectual property; future non-bid contracts for marketing the name New York City had to submitted to the Franchise and Concession Review Committee for approval.

... required to do a broader review when reviewing future concessions contracts. **Judd Burstein**, P.C. , New York City (**Judd Burstein**, Alexander M. Levy and ...

218. A Martha Graham Sch. & Dance Found., Inc. v. Martha Graham Ctr. of Contemporary Dance, Inc.

United States Court of Appeals for the Second Circuit | Aug 18, 2004 | 380 F.3d 624

Overview: Choreographer's 10 dances created between 1956 and 1965 were not works for hire under the 1909 Copyright Act; although she was employed by a dance school during that time, no evidence indicated that the scope of her employment included choreography.

... Affirmed in part, reversed in part, vacated in part and remanded. **Judd Burstein**, New York, N.Y. (David Nimmer, ...

219. A Martha Graham Sch. & Dance Found., Inc. v. Martha Graham Ctr. of Contemporary Dance, Inc.

United States Court of Appeals for the Second Circuit | Aug 18, 2004 | 2004 U.S. App. LEXIS 20904 ... Affirmed in part, reversed in part, vacated in part, and remanded. **Judd Burstein**, New York, N.Y. (

220. A Panix Prods. v. Lewis

David Nimmer, ...

United States Court of Appeals for the Second Circuit | Aug 30, 2004 | 106 Fed. Appx. 757 ... APPEARING FOR APPELLEES LENNOX LEWIS AND LENNOX LEWIS ENTERPRISES, INC.: JUDD BURSTEIN (Peter B. Schalk , Matthew G. DeOreo...

United States District Court for the Southern District of New York | Sep 14, 2004 | 2004 U.S. Dist. LEXIS 18299

Overview: Where inmate's counsel's trial decisions represented sound trial strategy, magistrate found that counsel was not ineffective, and recommended that inmate's habeas corpus petition be denied.

... raised in his brief to the Appellate Division. See Letter from **Judd Burstein** to Stuart M. Cohen, Clerk of the Court, Court of Appeals ...

Supreme Court of New York, Appellate Division, First Department | Oct 19, 2004 | 11 A.D.3d 325

Overview: Plaintiff's negligent hiring action was properly dismissed in absence of allegations identifying employees involved and showing that defendants knew or should have known of employees' propensity for sort of conduct that caused plaintiff's injuries.

... New York (Stephen C. Glasser of counsel), for appellant. **Judd Burstein**, New York, for Lennox Lewis, respondent. Aliano, Aliano & ...

223. A Main Events Prods., L.L.C. v. Lacy

United States District Court for the District of New Jersey | Oct 27, 2004 | 358 F. Supp. 2d 391

Overview: Boxing promoter's motion for partial summary judgment, seeking to dismiss a boxer's counterclaim for failure to comply with the notice requirements of 15 U.S.C.S. § 6307e(b), was denied, where the intent of the statute was to require that notice be given directly to the boxer, not to a manager who held conflicting interests.

... New Jersey . For Jeff Lacy, Defendant: **Judd Burstein** Esq., **JUDD BURSTEIN**, P.C., New York, New York; David A. Picon ...

224. • Don King Prods. v. Hopkins

United States District Court for the Southern District of New York | Dec 23, 2004 | 2004 U.S. Dist. LEXIS 25917

Overview: In boxing promoter's action against boxer and rival promoter, defendants were granted 15-day extension to respond to complaint because request was not excessive and would not prejudice boxing promoter, and boxing promoter did not establish bad faith.

- ... 305,000 due upon execution of the contract. (See Affidavit of **Judd Burstein** , Esq., dated December 16, 2004 (" Burstein Aff."), Ex. A.) ...
- ... and determination denied and defendants' cross-motion for extension of time granted. **JUDD BURSTEIN** , ESQ., **Judd Burstein** , P.C. , New York , New York , Attorneys for ...

225. • Armstead v. Morgan Guar. Trust Co.

Supreme Court of New York, Appellate Division, First Department | Dec 28, 2004 | 13 A.D.3d 294

Overview: Removal of a trustee after a commission error was improper when there was no showing of bad faith or that the trustee's conduct endangered the trust. The trustee paid back the excess commissions with interest.

... or endangerment of trust principal, demonstrated trustee's freedom from bad faith. **Judd Burstein** , New York , for appellants. Davis Polk & Wardwell , ...

226. A DiBella v. Hopkins

United States Court of Appeals for the Second Circuit | Apr 04, 2005 | 403 F.3d 102

Overview: A jury had been correctly charged by requiring it to find falsity by clear and convincing proof in a libel action brought by a boxing promoter against a boxer. The jury could readily have found that the

boxer acted with ill will and maliciousness in spreading false allegations, which was sufficient to sustain a punitive damages award.

- ... any kind of relationship between DiBella and Hopkins existed. DiBella's attorney, **Judd Burstein**, Esq., sought to impeach Joseph on cross-examination with the order ...
- ... Judgment on appeal and cross-appeal affirmed; plaintiff's motion to strike granted. **JUDD BURSTEIN**, New York, New York (Peter B. Schalk, Matthew G. DeOreo, Law Office of **Judd Burstein**, P.C., ...

227. Kilmer v. FitzGerald

Supreme Court of New York, Appellate Division, First Department | Apr 12, 2005 | 17 A.D.3d 161 ... 2005 N.Y. App. Div. LEXIS 3741 April 12, 2005 , Decided **Judd Burstein** , New York , for petitioner. Robert M. Morgenthau , District ...

United States District Court for the Western District of Kentucky | Apr 26, 2005 | 2005 U.S. Dist. LEXIS 7276

Overview: Where parties had entered into several agreements, the agreements were interdependent, and the language of a forum selection clause made clear that it embraced the other agreements, the forum selection clause contained in only one of the agreements controlled all of the agreements.

... Louisville, KY. ; **Judd Burstein**, Matthew G. DeOreo , Peter B. Schalk , **Judd Burstein**, PC , New York , ...

229. 🔼 <u>Don King Prods. v. Hopkins</u>

United States District Court for the Southern District of New York | May 04, 2005 | 2005 U.S. Dist. LEXIS 8132

Overview: Although the federal question raised by the promoter's anticipated federal action would have satisfied the well-pleaded complaint rule of 28 U.S.C.S. § 1331, because the remaining causes of action were based in state law and there was no proof of a threat of federal litigation, the complaint was dismissed for lack of subject matter jurisdiction.

... PETER B. SCHALK, ESQ., **Judd Burstein**, P.C., New York, New York, **Judd Burstein**, Esq., Attorneys for Plaintiff Don King Productions, Inc. KATHERINE L. ...

United States District Court for the Western District of Kentucky | May 27, 2005 | 2005 U.S. Dist. LEXIS 10403

Overview: Fed. R. Civ. P. 12(b)(3) dismissal motion was denied; parties were not bound by forum selection clause, which required litigating promoter's claims in Gibralter. Venue was proper under 28

U.S.C.S. § 1391(a) because dispute arose from events occurring in Kentucky and media distributor was subject to court's personal jurisdiction when suit was filed.

... KY; Judd Burstein, Judd Burstein, PC, New York, NY; Peter B. Schalk, Judd Burstein, PC, New York, ...

231. Pacquiao v. M&M Sports, Inc.

United States District Court for the Southern District of New York | Jun 20, 2005 | 2005 U.S. Dist. LEXIS 12987

Overview: Court denied defendants' Fed. R. Civ. P. 56 motion for partial summary judgment on ground that plaintiffs' claims under Muhammad Ali Boxing Reform Act, 15 U.S.C.S. § 6309(d), were time-barred because statute of limitations set forth in 28 U.S.C.S. § 1658(a) applied and action was filed within four years of earliest fight identified by plaintiff.

... Defendants motion for partial summary judgment DENIED. For Emmanuel Pacquiao, Plaintiff: **Judd Burstein**, Burstein & McPherson, L.L.P., New York, NY...

232. • Comptroller of City of N.Y. v. Mayor of City of N.Y.

Supreme Court of New York, Appellate Division, First Department | Jun 21, 2005 | 19 A.D.3d 230

Overview: When a comptroller objected to a city marketing contract with a beverage company, because a certification required by the city charter was not made, he had to give prompt written notice of his objection, and he could only object to the existence or non-existence of specifically required certifications, rather than inspecting the underlying process.

... Counsel, New York (Dona B. Morris of counsel), for appellants-respondents. **Judd Burstein** , New York , for respondent-appellant. Shearman & Sterling LLP , ...

233. A Martha Graham Sch. & Dance Found., Inc. v. Martha Graham Ctr. of Contemporary Dance, Inc.

United States District Court for the Southern District of New York | Jun 23, 2005 | 374 F. Supp. 2d 355

Overview: In a copyright action by a dance foundation and an estate trustee against a dance center and a dance school, the court found, pursuant to Fed. R. Civ. P. 52(a), that, inter alia, the common law copyrights in 7 unpublished dances were assigned to the center, and that the dancer who wrote the dances received consideration for the assignment.

... The issues on partial remand were answered by the court. **JUDD BURSTEIN**, P.C., Attorneys for Plaintiffs-Counterclaim Defendants, New York, NY, By: **Judd Burstein**, Esq., Peter B. Schalk...

234. Ader v. Ader

Supreme Court of New York, Appellate Division, First Department | Oct 11, 2005 | 22 A.D.3d 289

Overview: Parties' separation agreement provided that earnings adjustment units were to be distributed to a wife from a husband's deferred compensation plan. The wife was entitled to all accretions and earnings on the shares to which she was entitled under the agreement, without distinction between dividend earnings and earnings adjustment units.

... value of deferred compensation shares for year 2000 plaintiff actually received. **Judd Burstein**, New York, for appellant. Paul, Hastings, Janofsky & Walker ...

United States District Court for the District of Connecticut | Nov 03, 2005 | 2005 U.S. Dist. LEXIS 35767

Overview: Corporation's summary judgment motion was granted against companies' claim that corporation breached obligations under prospectus. Given time constraints, corporation made reasonable determination that companies were acting in concert after investigation of documentation showed common members/officers, signatories, and almost identical addresses.

... Michael C. Quinn, **Judd Burstein**, P.C., New York, NY; Peter B. Schalk, **Judd Burstein**, P.C., New York...

236. A DiBella v. Hopkins

United States District Court for the Southern District of New York | Dec 29, 2005 | 407 F. Supp. 2d 537

Overview: Plaintiff, who obtained a jury verdict on a claim of libel, was entitled to recover from defendant reasonable litigation costs that were related to the design and product of demonstrative presentations for trial, and for management of the exhibits used at trial, pursuant to Fed. R. Civ. P. 54, 28 U.S.C.S. § 1920, and Local Rule 54.1.

... the costs requested by plaintiff. The court denied defendant's cross motion. **JUDD BURSTEIN**, P.C. , Attorneys for Plaintiff, By: **Judd Burstein**, Esq., Peter B. Schalk , Esq., ...

United States District Court for the Northern District of New York | Jan 06, 2006 | 337 B.R. 11

Overview: Even if a creditor had shown that the debtor fraudulently did not report her ownership interests in a corporation, revocation of the discharge was nevertheless improper because the creditor had not demonstrated that she became knowledgeable of debtor's fraud only after debtor's discharge from bankruptcy.

... bankruptcy court was affirmed. For Kristin Keeffe, Appellant: **Judd Burstein**, Office of **Judd Burstein**, New York, NY. For Toni F. Natalie, Appellee: ...

238. A Crab House of Douglaston, Inc. v. Newsday, Inc.

United States District Court for the Eastern District of New York | Mar 03, 2006 | 418 F. Supp. 2d 193

Overview: Where advertisers alleged that newspapers and related individuals violated RICO by charging inflated advertising rates based on false circulation figures, alleged association-in-fact which included independent auditing company was not RICO enterprise, and advertisers failed to allege direction of newspapers by individuals or specific acts of fraud.

... Esq., & Edward A. McDonald , Esq. **JUDD BURSTEIN**, P.C., Attorney for Defendant Sito, New York , NY , By: **Judd Burstein** , Esq. DEFEIS, O'CONNELL & ROSE, P.C., Attorney for Defendant Pothoff, ...

239. A M'Baye v. World Boxing Ass'n

United States District Court for the Southern District of New York | Apr 28, 2006 | 429 F. Supp. 2d 652

Overview: Boxing association's motion to dismiss was denied because it was subject to jurisdiction under N.Y. C.P.L.R. § 301 based on a long history of doing business in New York and use of the state's administrative procedures which allowed it to earn considerable fees, and service was effected under N.Y. C.P.L.R. § 311 by serving a director's receptionist.

... C.P.L.R. § 311 . The court denied defendant's motion to dismiss. **JUDD BURSTEIN**, P.C., By: **Judd Burstein** , Esq., Peter B. Schalk , Esq., New York , ...

United States District Court for the Southern District of New York | May 05, 2006 | 429 F. Supp. 2d 660

Overview: Professional boxer was granted a Fed. R. Civ. P. 65(a) preliminary injunction against a boxing association. He was irreparably harmed by being passed over for championship bouts, there were serious questions about interpretation of the association's rules, and the hardships tipped in his favor as further delay would hinder his title opportunities.

... a disputed bout as a welterweight championship match. Attorneys for Plaintiff: **JUDD BURSTEIN**, P.C., By: **Judd Burstein**, Esq., Peter B. Schalk , Esq., New York...

Supreme Court of New York, Appellate Division, First Department | Jun 20, 2006 | 30 A.D.3d 271

Overview: Lower court properly granted a motion to dismiss the claims against respondents on the grounds that appellant had not established jurisdiction, pursuant to N.Y. C.P.L.R. § 302(a)(1),(2),(3), or (4), because appellant did not show that respondents' conduct, committed out-of-state, was meant to have any impact on New York.

... aware that their conduct would have effect in New York . **Judd Burstein** , New York (Lara P. Ott of counsel), for appellant. ...

242. Zeitouni v. O'Donnell

United States District Court for the Western District of Pennsylvania | Jun 28, 2006 | 2006 U.S. Dist. LEXIS 105791

... Bentz Law Firm, P.C., Pittsburgh, PA, USA; **Judd Burstein**, Peter B. Schalk, LEAD ATTORNEYS, **Judd Burstein**, New York, NY, USA. For James v. O'Donnell, ...

243. A Matter of Comptroller of City of N.Y. v. Mayor of City of N.Y.

Court of Appeals of New York | Jun 29, 2006 | 7 N.Y.3d 256

Overview: A city comptroller was right that term "property" in New York City, N.Y., Charter § 362(a) included intangible property, including contracts, but he had no right to refuse to register contract that had mayor's facially sufficient certification; thus, contract with concession and drink provider did not have to be annulled; it had to be registered.

... been met and legal authority existed to award a concession contract. **Judd Burstein**, P.C. , New York City (**Judd Burstein**, Peter B. Schalk and ...

244. United States v. Eppolito

United States District Court for the Eastern District of New York | Jun 30, 2006 | 436 F. Supp. 2d 532

Overview: The statute of limitations mandated acquittal on racketeering conspiracy charges filed under 18 U.S.C.S. § 1962(d) because a conspiracy, in which defendants committed murders for hire while they were members of a police department, was unrelated to money laundering and narcotics violations that defendants committed after they retired and relocated.

- ... Kaplan testified that he received a phone call from his lawyer, **Judd Burstein**, informing him that Casso had begun cooperating with the government. **Judd Burstein** corroborated Kaplan's testimony on this point, describing the phone call to ...
- \dots was contradicted by the testimony at trial of Kaplan's former lawyer, **Judd Burstein**, who described Kaplan's statement to him in 1994 that Kaplan \dots

245. A Martha Graham Sch. & Dance Found., Inc. v. Martha Graham Ctr. of Contemporary Dance, Inc.

United States Court of Appeals for the Second Circuit | Jul 11, 2006 | 455 F.3d 125

Overview: In trademark and copyright action, decision on remand that a dance center owned seven specific dances at the time of their creator's death was affirmed because the district court properly excluded additional evidence which was not directly relevant to the ownership of the seven dances, and plaintiffs' Fed. R. Civ. P. 60(b) motion was untimely.

 \dots of the district court was affirmed. AFFIRMED. PETER B. SCHALK , **Judd Burstein** , P.C. , New York , NY , for Plaintiffs-Counter-Defendants-Appellants. KATHERINE \dots

United States Court of Appeals for the Second Circuit | Jul 11, 2006 | 466 F.3d 97

Overview: In a copyright and trademark infringement action by the trustee of a decedent's trust and a dance foundation against a dance center and dance school, after judgment, the trustee's and foundation's Fed. R. Civ. P. 60(b) motion for a new trial was properly denied as untimely where it was filed two and a half years after the district court's judgment.

... The district court's judgment was affirmed. AFFIRMED. PETER B. SCHALK, **Judd Burstein**, P.C., New York, NY, for Plaintiffs-Counter-Defendants-Appellants. KATHERINE B. ...

247. • M'Baye v. World Boxing Ass'n

United States District Court for the Southern District of New York | Jul 28, 2006 | 2006 U.S. Dist. LEXIS 53869

... Supp. 2d 660 , 2006 U.S. Dist. LEXIS 27427 (S.D.N.Y., 2006) **JUDD BURSTEIN**, P.C., By: **Judd Burstein** ,Esq. , Peter B. Schalk , Esq. , New York , ...

248. A Hill v. Tribune Co.

United States District Court for the Northern District of Illinois, Eastern Division | Sep 29, 2006 | 2006 U.S. Dist. LEXIS 71244

Overview: Securities fraud claims under 15 U.S.C.S. § 78j(b), which were based on allegations that a corporation's stock price was inflated due to overstated newspaper circulation numbers, failed to allege scienter as required under the PSLRA. ERISA breach of fiduciary duty claims that were based on the same alleged inflation of stock price also failed.

... For Louis Sito, Defendant: Alexander M. Levym , **Judd Burstein** , **P.C.** , New York , NY ; Steven Alan Miller ...

249. A Brook Mimbre, LLC v. New Alliance Bancshares, Inc.

United States Court of Appeals for the Second Circuit | Nov 21, 2006 | 206 Fed. Appx. 63

Overview: Summary judgment was properly granted in favor of a seller in a breach of contract lawsuit because the evidence established that the seller properly limited the buyers' order of shares in its initial public offering according to the terms of the parties' contact due to its determination that the buyers were acting in concert with others.

... The court affirmed the district court's decision. AFFIRMED. For Plaintiff-Appellants: **JUDD BURSTEIN**, **Judd Burstein**, P.C., New York, NY. For Defendant-Appellee: WILLIAM S. ...

Supreme Court of New York, New York County | Feb 06, 2007 | 15 Misc. 3d 372

Overview: In a matrimonial action, a motion by the wife's former attorney to enforce a charging lien pursuant to Judiciary Law § 475 was granted, because the attorney's calculation that a settlement

exceeded the wife's share of actual real estate proceeds was reasonable, and this amount represented the creation of a new fund by the attorney's efforts.

- \dots by the attorney's efforts to which a charging lien could attach. **Judd Burstein**, New York City, movant. Cohen Goldstein & Silpe, \dots
- \dots Beeler , J. Plaintiff wife's former attorney in this matrimonial action, **Judd Burstein** , Esq., moves by order to show cause to enforce a \dots

EXHIBIT D



Results for: "Judd Burstein" & "Jay Goldberg"

Cases

1. Panix Promotions v. Lewis

United States District Court for the Southern District of New York | Mar 04, 2004 | 2004 U.S. Dist. LEXIS 3504

Overview: To the extent that an order restricting post-verdict financial transactions was vague, transfers that purportedly violated the order could not be grounds for contempt, but expenditures in excess of spending limits led to a civil contempt finding.

- ... 1st Aff. P 8. Eliades' defense is corroborated by his attorney, Jay Goldberg 's statement that the "Order was not sent to Mr. Eliades' ...
- ... to appoint a prosecutor were denied. For Lennox Lewis, ThirdParty Plaintiff: Judd Burstein , LEAD ATTORNEY, Judd Burstein, P.C. , New York , NY . For ...
- ... promoted the May 10 fight without the consent of Lewis' attorney, Judd Burstein , 9 While the Court finds credible Eliades' assumption that Burstein ...

2. Panix Prods. v. Lewis

United States District Court for the Southern District of New York | Jul 15, 2003 | 2003 U.S. Dist. LEXIS 11952

Overview: Trial court held that a reasonable intermediate date from which to calculate prejudgment interest for damages for breach of fiduciary duty and fraud was date that professional boxer paid his management company 50 percent of agreed management fees.

Jay Goldberg, Jay Goldberg, PC, New York, NY USA. For Lennox Lewis, DEFENDANT: Judd Burstein, Judd Burstein, PC, ...

Supreme Court of New York, Appellate Division, Third Department | Apr 10, 2003 | 304 A.D.2d 918

Overview: Invoices which a son offered to prove that a company owned by his mother owed over \$ 1 million to a business the son purchased from his father were altered or inaccurate, and the trial court's judgment excluding the invoices from evidence was upheld.

... New York City (Judd Burstein of counsel) and Jay Goldberg P.C., New York City (Jay Goldberg of counsel), for Willowbrook Development Company and others, respondents. ...

4. Aaron v. Kavanagh

Overview: In a mandamus proceeding between a business owner and his company, which were opposite parties in 15 consolidated civil actions, the court dismissed the owner and the company's petition to compel recusal of the presiding judge in the civil case.

... of counsel), for petitioners. Jay Goldberg P.C., New York City (Jay Goldberg of counsel), for Lillian Aaron, respondent. Judd Burstein P.C., New York City (Judd Burstein of counsel), for ...

5. Panix Promotions, Ltd. v. Lewis

United States District Court for the Southern District of New York | Jun 03, 2002 | 2002 U.S. Dist. LEXIS 10068

Overview: Fact that heavyweight boxing champion was not awarded damages on his breach of contract counterclaim against boxing promoters but found the promoters liable for breach of fiduciary duty and RICO violations did not render jury verdict inconsistent.

... For LENNOX LEWIS, third-party plaintiff: Judd Burstein, Judd Burstein, P.C., New York, NY. For LENNOX LEWIS, counter-claimant: Judd Burstein, Judd Burstein, P.C., New York, NY. For PANIX PRODUCTIONS, LTD., PANIX OF THE U.S., INC., counter-defendants: Jay Goldberg,...

... For PANIX PRODUCTIONS, LTD., PANIX OF THE U.S., INC., plaintiffs: Jay Goldberg, Jay Goldberg, P.C., New York, NY. For LENNOX LEWIS, defendant: Judd Burstein, Judd Burstein, P.C., New York, NY...

6. Chao v. Ladies Apparel Group, Ltd.

United States District Court for the Southern District of New York | May 28, 2002 | 2002 U.S. Dist. LEXIS 10078

Overview: The Secretary of Labor was entitled to a preliminary injunction against a garment manufacturer's production manager for violations of the Fair Labor Standards Act of 1938's "hot goods" provision.

- ... Clifton , NJ . For LENNOX LEWIS , counter-claimant: Judd Burstein , Judd Burstein , P.C., New York , NY . For NEW JERSEY SPORTS ...
- ... For PANIX OF THE U.S., INC., plaintiff: Jay Goldberg, Jay Goldberg, P.C., New York, NY. For LENNOX LEWIS, defendant: Judd Burstein, Judd Burstein, P.C., New York, ...
- ... Clifton , NJ . For LENNOX LEWIS , third-party plaintiff: Judd Burstein , Judd Burstein , P.C., New York , NY . For NEW JERSEY SPORTS ...
- ... For PANIX PRODUCTIONS, LTD., PANIX OF THE U.S., INC., counter-defendants: Jay Goldberg, Jay Goldberg, P.C., New York, NY. For RICHARD ASHKENS, ...

7. Panix Promotions, Ltd. v. Lewis

United States District Court for the Southern District of New York | Jan 18, 2002 | 2002 U.S. Dist. LEXIS 7176

Overview: An action for money had and received was derived from an implied contract, and a contract could not be implied in fact where there was an express contract covering the subject matter involved.

- ... And English , Clifton , NJ . For LENNOX LEWIS, counter-claimant: Judd Burstein, Judd Burstein , P.C., New York , NY . For NEW JERSEY SPORTS ...
- ... For PANIX PRODUCTIONS, LTD., PANIX OF THE U.S., INC., plaintiffs: Jay Goldberg, Jay Goldberg, P.C., New York, NY. For LENNOX LEWIS, defendant: Judd Burstein, Judd Burstein, P.C., New York, NY...
- ... English , Clifton , NJ . For LENNOX LEWIS, third-party plaintiff: Judd Burstein , Judd Burstein , P.C., New York , NY . For NEW JERSEY SPORTS ...
- ... For PANIX PRODUCTIONS, LTD., PANIX OF THE U.S., INC., counter-defendants: Jay Goldberg, Jay Goldberg, P.C., New York, NY. For RICHARD ASHKENS, ...

8. A Panix Promotions, Ltd. v. Lewis

United States District Court for the Southern District of New York | Jan 15, 2002 | 2002 U.S. Dist. LEXIS 784

Overview: Boxer was able to present enough elements of a RICO claim to survive dismissal against the promoters' wholly owned production company and for the acts of the promoters with regard to the production company.

- ... C. English , Clifton , NJ . For LENNOX LEWIS, counter-claimant: Judd Burstein, Judd Burstein , P.C., New York, NY . For NEW JERSEY SPORTS PRODUCTIONS, ...
- Jay Goldberg, P.C., New York, NY. For LENNOX LEWIS, defendant: Judd Burstein, Judd Burstein, P.C., New York, NY. For NEW JERSEY SPORTS PRODUCTIONS, ...
- ... English , Clifton , NJ . For LENNOX LEWIS, third-party plaintiff: Judd Burstein , Judd Burstein , P.C., New York, NY . For NEW JERSEY SPORTS PRODUCTIONS, ...
- ... For PANIX PRODUCTIONS, LTD., PANIX OF THE U.S., INC., counter-defendants: Jay Goldberg, Jay Goldberg, P.C., New York, NY. For RICHARD ASHKENS, counter-defendant: ...

9. A F & K Supply Inc. v. Willowbrook Dev. Co.

Supreme Court of New York, Appellate Division, Third Department | Nov 21, 2001 | 288 A.D.2d 713

Overview: Agreement which purportedly settled 15 lawsuits between family members was vague and unenforceable because it did not clearly delineate parties' obligations or resolve issue of whether it bound only parties who signed it.

... of counsel), Troy, for appellants. Burstein & McPherson L.L.P. (Judd Burstein of counsel), and Jay Goldberg P.C. (Jay Goldberg of counsel), New York City, for respondents. ...

10. A TWA, Inc. v. Karabu Corp.

Court of Appeals of Missouri, Eastern District, Division Three | Sep 07, 1999 | 999 S.W.2d 753 ... MO , Judd Burstein , Burstein & McPherson, LLP , New York, NY , Jay Goldberg, P.C. , New York, ...

11. • United States v. Harpaul

United States District Court for the Eastern District of New York | Oct 29, 1998 | 25 F. Supp. 2d 136

Overview: Because defendants' conviction on tax evasion and mail fraud were not of the same general type, the tax evasion and the mail fraud counts could not be grouped together under the sentencing guidelines.

... For Sewdutt Harpaul, also known as "Mike", Defendant: Judd Burstein , Esq., Laurie J. McPherson , Esq., Of Counsel, JUDD BURSTEIN, P.C. , New York , ...

12. A Don King Prods. v. Chavez

Court of Appeal of Florida, Fourth District | Sep 15, 1998 | 717 So. 2d 1094

Overview: Appellant fight promoter was unsuccessful in contending that a conclusive presumption of irreparable injury should be applied to a breach of contract action, thus entitling appellant to an injunction.

... of Verner, Liipert, Bernard, McPherson and Hand, Miami, and Judd Burstein of Judd Burstein, P.C., and Jay Goldberg of Jay Goldberg, P.C., New York, New York, for Appellee-Julio Cesar...

13. A Karabu Corp. v. Gitner

United States District Court for the Southern District of New York | Aug 03, 1998 | 16 F. Supp. 2d 319

Overview: Bringing an action against out-of-state officers of large, multi-national corporation based upon their title without basis for belief that they personally participated in conduct underlying lawsuit did not confer jurisdiction under agency theory.

 \dots For Plaintiffs: Judd Burstein , BURSTEIN & FASS LLP , New York , NY . For Plaintiffs: JAY GOLDBERG, P.C. , New York \dots

14. A United States v. Harpaul

United States District Court for the Eastern District of New York | Apr 27, 1998 | 4 F. Supp. 2d 137

Overview: The government was ordered to submit the reasons for its refusal to perform its part of the cooperation agreements entered by the defendants where the court was unable to determine on the record whether the government acted in good faith.

... For Chandradutt Harpaul, Defendant: JAY GOLDBERG, P.C., New York, New York, For Sewdutt Harpaul, Defendant: JUDD BURSTEIN, P.C., LAURIE J. McPHERSON, Esq., ...

15. A Global Discount Travel Servs., LLC v. TWA

United States District Court for the Southern District of New York | Mar 24, 1997 | 960 F. Supp. 701

Overview: Plaintiff's Sherman and Lanham Acts claims did not state causes of action, because the antitrust claim required definition of relevant product market and the false representations claim required interpretation of the contract.

... Trans World Airlines, Inc. JAY GOLDBERG, P.C., New York, New York, BURSTEIN & FASS LLP, Judd Burstein, Esq., New York...

16. A United States v. Ward

United States District Court for the Northern District of Illinois, Eastern Division | Aug 08, 1995 | 895 F. Supp. 1000

Overview: The anti-contact rule did and should not apply to pre-indictment, non-custodial contacts by prosecutors or undercover informants.

- ... Thomas Anthony Durkin , Thomas Anthony Durkin , P.C., Chicago , IL. Jay Goldberg , Attorney at Law, New York , NY . For MARION ...
- ... Grippo & Elden , Chicago , IL. Judd Burstein , Attorney at Law, New York , NY . U. S. ...

17. United States v. Cain

United States District Court for the Northern District of Illinois, Eastern Division | May 09, 1995 | 1995 U.S. Dist. LEXIS 6319

Overview: In a multi-defendant mail fraud case, defendant's motion to dismiss the indictment as time-barred was dismissed. His motion for severance regarding the counts not involving him was granted.

- ... Thomas Anthony Durkin, Thomas Anthony Durkin, P.C., Chicago , IL. Jay Goldberg , Attorney at Law, New York , NY . For MARION ...
- ... Gregory Campbell Jones , Grippo & Elden , Chicago , IL. Judd Burstein , Attorney at Law, New York , NY . U. S. ...

United States District Court for the Southern District of New York | Mar 22, 1995 | 882 F. Supp. 60

Overview: As the judgment creditors' subpoenas sought information regarding the debtors' family members in order to aid the judgment creditors in filing a separate lawsuit against the family members, ancillary jurisdiction over the subpoenas did not exist.

- \dots NY . For BRUCE HUGGINS, H.H.F. FARMS, INC. , defendants: Judd Burstein, Judd Burstein , P.C., New York , NY . Richard A. Stoloff , \dots
- ... NY . For HIRAM H FRANK, defendant: Jay Goldberg, New York , NY . For BRUCE HUGGINS, H.H.F. FARMS, INC. , counter-claimants: Judd Burstein, Judd Burstein, P.C., New York...
- ... York , NY . For GOLDEN EGG FARMS, INC. , defendant: Jay Goldberg , New York , NY . For HIRAM J FRANK, defendant: ...

19. A United States v. Ward

United States District Court for the Northern District of Illinois, Eastern Division | Jan 19, 1995 | 1995 U.S. Dist. LEXIS 705

Overview: Three defendants, charged with wire fraud and conspiracy, could not strike allegations from the indictment because the lack of identification of three employees, who were told not to talk to insurance investigators, did not invalidate the indictment.

- ... Jay Goldberg, Attorney at Law, New York, NY. For MARION HULICK ...
- ... defendant: Gregory Campbell Jones , Grippo & Elden , Chicago, IL. Judd Burstein, Attorney at Law, New York, ...

20. A HBE Leasing Corp. v. Frank

United States Court of Appeals for the Second Circuit | Jan 18, 1995 | 48 F.3d 623

Overview: Where judgment creditors argued that the debtor's payment of attorney fees was made with fraudulent intent, the trial court erred in dismissing their claim based on a finding of fair consideration under New York's Uniform Fraudulent Conveyance Act.

- ... HANCOCK CORPORATION , Petitioners-Appellees-Cross-Appellants, v. CLEMENCE FRANK, Respondent-Appellant, and GERALD LEFCOURT, JAY GOLDBERG, MICHAEL BERGER, JUDD BURSTEIN , GOLDSTEIN & STOLOFF, RICHARD WARE LEVITT and CLIFF GORDON, Respondents-Cross-Appellees. ...
- ... N.Y., on the brief), for respondents-cross-appellees Gerald Lefcourt, Jay Goldberg, Judd Burstein, Richard Ware Levitt, and Cliff Gordon. Michael G. Berger, ...

21. A Lindemann v. American Horse Shows Ass'n

Supreme Court of New York, New York County | Dec 01, 1994 | 164 Misc. 2d 937

Overview: A person charged with a crime could not be summarily and indefinitely suspended from his or her position as a member of a private association or from the exercise of rights and privileges on the basis of the accusation alone.

... agents or others, it constitutes a kind of Bill of Attainder. Jay Goldberg, P. C., and Duker & Barrett for George Lindemann, Jr., and another, plaintiffs. Judd Burstein and ...

22. A Hardy v. Kaszycki & Sons Contractors

United States District Court for the Southern District of New York | Oct 20, 1994 | 870 F. Supp. 489

Overview: For issue to have preclusive effect, it had to be identical with that earlier litigated. Holding that building owner was liable as participant in another's breach of ERISA duty did not preclude owner from arguing he was not an ERISA "employer."

... motion to amend and a motion to strike plaintiffs' jury demand. JAY GOLDBERG, P.C. , Attorneys for the Trump Defendants, New York , NY . Of Counsel: Judd Burstein, Karen A. Murphy. STEEL, BELLMAN, RITZ and CLARK, P.C....

United States Court of Appeals for the Second Circuit | Apr 12, 1994 | 22 F.3d 41

Overview: Despite plaintiffs' pretrial order which indicated that plaintiffs' theory of the case was that no equipment actually existed under sham leases, plaintiff was allowed to present rebuttal evidence that the equipment presented by defendants was old.

... S. Pitkin Marshall , New York, NY), for Plaintiffs-Appellees. JUDD BURSTEIN, New York, NY , (Jay Goldberg , Richard Ware Levitt , New York, NY , of counsel), ...

Supreme Court of New York, Appellate Division, Second Department | Jan 24, 1994 | 200 A.D.2d 646

Overview: Wholesaler's action against gasoline company was dismissed, as contract claim was barred by the statute of frauds, no cause of action for its fraud claim was stated, and it did not have a cause of action under the state's price gouging statute.

Jay Goldberg, P.C., New York, N.Y. (Mitchell Sockett of counsel), Maler & Maler, Patchogue, N.Y., and Judd Burstein, P.C., ...

25. A lanniello v. United States

United States Court of Appeals for the Second Circuit | Nov 18, 1993 | 10 F.3d 59

Overview: Trial court's error in not instructing the jury that it had to find a relationship among the predicate acts supporting the RICO violation was harmless because evidence that the predicate acts were interrelated was overwhelming.

... Affirmed on ground of harmless error. JUDD BURSTEIN, P.C., New York, New York (Jay Goldberg, P.C., New York, New York...

United States District Court for the Southern District of New York | Nov 02, 1993 | 837 F. Supp. 57

Overview: Although mortgages given by a corporate judgment debtor for a purported loan were void under the Deep Rock Doctrine, fees paid by the judgment debtor to the attorneys for co-defendants were not fraudulent or recoverable by the judgment creditors.

- ... FRANK ENTERPRISES, INC., HIRAM J. FRANK, HIRAM H. FRANK, GERALD LEFCOURT, JAY GOLDBERG, MICHAEL BERGER, JUDD BURSTEIN, GOLDSTEIN & STOLOFF, RICHARD WARE LEVITT and CLIFF GORDON, Respondents....
- ... New York . Counsel for Respondent Attorneys Gerald Lefcourt , Jay Goldberg, Judd Burstein , Richard Ware Levitt and Cliff Gordon : ...

27. A Diduck v. Kaszycki & Sons Contractors, Inc.

Overview: Shareholder class members were granted intervention at death of plaintiff by right or, alternatively, by permission as in either instance, they met all requirements for intervention under federal rules and any recovery would accrue to Union Funds.

... 10013. For Trump Defendants: Jay Goldberg, Esq., 250 Park Ave., New York, NY 10022, Of Counsel: JUDD BURSTEIN, P.C., By: Judd Burstein, Esq., Karen A. Murphy, Esq., 950 Third Ave., New York, ...

28. A United States v. Gambino

United States District Court for the Eastern District of New York | Apr 15, 1993 | 818 F. Supp. 541

Overview: Defendants motion for dismissal of indictment under Speedy Trial Act was denied because their failure to file a motion for dismissal prior to trial or entry of a plea of guilty or nolo contendere constituted a waiver of right to dismissal under Act.

- ... Street, New York , New York 10024, Attorney for Thomas Gambino. Judd Burstein , Esq., 950 Third Avenue, New York , New York 10022, ...
- ... Williamsbridge Road, Bronx , New York 10461, Attorney for Philip Loscalzo. Jay Goldberg , Esq., 250 Park Avenue, New York , New York 10177, ...

29. <u>A United States v. Gambino</u>

United States District Court for the Eastern District of New York | Apr 15, 1993 | 818 F. Supp. 536

Overview: Defendant's acquittal in separate case was inadmissible hearsay and, alternatively, was not relevant because it did not show bias of the government and did not prove innocence, but merely proved failure to establish the elements of the prior crime.

- ... Street, New York, New York 10024, Attorney for Thomas Gambino. Judd Burstein, Esq., 950 Third Avenue, New York, New York 10022, ...
- ... Williamsbridge Road, Bronx , New York 10461, Attorney for Philip Loscalzo. Jay Goldberg , Esq., 250 Park Avenue, New York , New York 10177, ...

30. A Diduck v. Kaszycki & Sons Contractors

United States District Court for the Southern District of New York | Mar 10, 1993 | 147 F.R.D. 60

Overview: The employees were entitled to substitute a new class representative in the class action case against an employer where the class representative's death did not make the claims of the class members moot and a new representative could likely be found.

... NY 10007, By: Robert Wang, Esq. ATTORNEYS FOR TRUMP DEFENDANTS: Jay Goldberg, Esq., 250 Park Avenue, New York, NY 10017, Judd Burstein, P.C., 950 Third Avenue, ...

31. A Fashion Boutique v. Fendi, USA, Inc.

United States District Court for the Southern District of New York | Jul 02, 1992 | 1992 U.S. Dist. LEXIS 9881

Overview: In a market where word-of-mouth disparagement was the only possible method of commercial promotion, a N.J. corporation stated a Lanham Act claim by alleging N.Y. corporations engaged in a systematic scheme to falsely disparage its goods and services.

... For Plaintiffs: JAY GOLDBERG, P.C. , 250 Park Avenue, New York, NY 10177, (212) 983-6000, BY: Judd Burstein , Jay Goldberg

United States District Court for the Southern District of New York | Jun 10, 1992 | 796 F. Supp. 95

Overview: The employee did not have standing to bring a RICO action because he was not the intended victim of the alleged scheme. Any injury suffered by the employee resulted from his refusal to cooperate rather than the racketeering activity itself.

JAY GOLDBERG, P.C., 250 Park Avenue, New York, New York 10177, JAY GOLDBERG, Esq., Of Counsel, JUDD BURSTEIN, P.C., 950 Third Avenue, New York, New York 10022, JUDD BURSTEIN

33. A Trump v. Trump

Supreme Court of New York, Appellate Division, First Department | Apr 16, 1992 | 179 A.D.2d 201

Overview: Deletion of a confidentiality clause, without notice to the parties, exceeded the trial court's limited authority to disturb the terms of a separation agreement. The wife's agreement not to publish about her husband did not violate public policy.

... exception of the confidentiality clause of the post-nuptial agreement from incorporation. Jay Goldberg, of counsel (Judd Burstein , with him on the brief, Tenzer, Greenblatt, Fallon and Kaplan ...

34. A United States v. Salerno

United States Court of Appeals for the Second Circuit | Nov 20, 1991 | 952 F.2d 624

- ... New York , New York , for Defendant-Appellant Aniello Migliore. Judd Burstein , New York , New York (John Jacobs , New ...
- ... the Southern District of New York , of Counsel), for Appellee. Jay Goldberg, New York , New York (Judd Burstein , New York , New York , of Counsel), for Defendant-Appellant ...

35. A United States v. Salerno

United States Court of Appeals for the Second Circuit | Nov 06, 1991 | 952 F.2d 623

- ... New York , New York , for Defendant-Appellant Aniello Migliore. Judd Burstein , New York , New York (John Jacobs , New ...
- ... the Southern District of New York , of Counsel), for Appellee. Jay Goldberg, New York , New York (Judd Burstein , New York , New York , of Counsel), for Defendant-Appellant ...

36. A Haviland v. Goldman, Sachs & Co.

United States Court of Appeals for the Second Circuit | Oct 16, 1991 | 947 F.2d 601

Overview: In the absence of an enforceable written agreement, an affiliate of the New York stock exchange member firm did not have authority to demand arbitration of non-exchange-related claims against it by an employee of a member firm.

... of Counsel), for Defendant-Appellant. Judd Burstein , New York , New York (Jay Goldberg, P.C. , New York , ...

37. A United States v. Salerno

United States Court of Appeals for the Second Circuit | Sep 24, 1991 | 1991 U.S. App. LEXIS 33827

- ... New York , New York , for Defendant-Appellant Aniello Migliore. Judd Burstein , New York , New York (John Jacobs , New ...
- ... the Southern District of New York , of Counsel), for Appellee. Jay Goldberg, New York , New York (Judd Burstein , New York , New York , of Counsel), for Defendant-Appellant ...

38. Federal Sav. & Loan Ins. Corp. v. 52 Park Assoc.

United States District Court for the Southern District of New York | Jul 18, 1991 | 1991 U.S. Dist. LEXIS 9823

Overview: Court ordered further hearing regarding a provision for a deficiency judgment against guarantors because FSLIC notice of motion for summary judgment failed to give notice that judgment would also provide for a deficiency judgment against guarantors.

JUDD BURSTEIN, P.C., Attorney for Defendant 52 Park Associates, New York, New York, By: JUDD BURSTEIN, ESQ., Of Counsel. JAY GOLDBERG, P.C....

39. United States v. Salerno

United States Court of Appeals for the Second Circuit | Jun 28, 1991 | 937 F.2d 797

Overview: In criminal matter, trial court committed reversible error by refusing to allow defendants to introduce at trial grand jury testimony of two cooperating witnesses as evidence was material and was admissible under prior testimony hearsay exception.

- ... New York , New York , for Defendant-Appellant Aniello Migliore. Judd Burstein , New York , New York (John Jacobs...
- ... New York , of Counsel), for Appellee. Jay Goldberg, New York , New York (Judd Burstein , New York , New York...
- \dots defense case and -- THE COURT: Yes. However, when lanniello's counsel, Jay Goldberg , attempted to recall the FBI agents during his side of \dots

40. A Haviland v. Goldman, Sachs & Co.

United States District Court for the Southern District of New York | May 08, 1990 | 736 F. Supp. 507

Overview: Employee's action against his employer, a securities dealer, was stayed where the employee had signed securities industry registration application containing arbitration provision applicable to employment disputes with the securities firm.

Jay Goldberg, P.C., Attorneys for Plaintiff, New York, New York, Jay Goldberg, Esq., Michael G. Berger, Esq., of counsel. Judd Burstein, P.C., Attorneys for Plaintiff, New York, New York, Judd Burstein....

41. A United States v. lanniello

United States District Court for the Southern District of New York | Apr 26, 1990 | 740 F. Supp. 171

Overview: A motion for new trial was denied where, under the totality of the evidence, there was no credible evidence that the trial court interfered with the deliberations of the jurors or attempted in any way to influence or coerce the trial jury.

- ... Counsel now dispute that they gave such consent. See Letter of Judd Burstein , Esq. docketed January 12, 1990. This issue is beyond the ...
- ... Hellerer, Esq., Assistant United States Attorney. For Defendant Matthew Ianniello: Jay Goldberg, Esq., New York, New York, of counsel: Judd Burstein, Esq., New York, ...

United States District Court for the Eastern District of New York | Jun 12, 1989 | 715 F. Supp. 445

Overview: An inmate was not entitled to have conviction set aside or to a new trial even though government commented in closing argument that a key government witness had agreed to tell truth on threat of cancellation of agreement not to prosecute witness.

... of conviction and for a new trial and dismissed the petition. Jay Goldberg, P.C. , New York , New York , Judd Burstein, P.C., New York , New York...

43. A People v. Mikuszewski

Court of Appeals of New York | May 02, 1989 | 73 N.Y.2d 407

Overview: Systematic ongoing conduct was insufficient to support a grand jury indictment for a scheme to defraud where no evidence existed that defendants intended to defraud 10 or more persons as required under New York Penal Law.

 \dots 720 F2d 1327 , 467 U.S. 1226 .) Judd Burstein and Jay Goldberg for respondents. The evidence before the Grand Jury was insufficient as \dots

44. A United States v. Ianniello

Overview: Defendants were entitled to a new trial and an evidentiary hearing after the trial judge made out-of-court statements to the jury about the necessity of reaching a verdict.

... Order vacated and case remanded for a hearing. Judd Burstein, New York, New York (John Jacobs, Anthony Cardinale, Jay Goldberg, Frederick Hafetz, ...

45. United States v. Yu

United States District Court for the Eastern District of New York | Oct 24, 1988 | 697 F. Supp. 635

Overview: In a prosecution for distributing heroin, defendant did not win a ruling to allow his attorney to elicit from a government agent a statement that defendant made at the time of his arrest. The statement was self-serving and was not relevant.

- ... Assistant U.S. Attorney, Attorney for Plaintiff, Brooklyn, New York . Jay Goldberg , P.C. , Attorney for Defendant Yu, New York , New ...
- \dots Attorney for Defendant Lee, New York , New York . Judd Burstein , Esq., Attorney for Defendant Chen, New York , New York \dots

46. <u>A United States v. Zingaro</u>

United States Court of Appeals for the Second Circuit | Sep 21, 1988 | 858 F.2d 94

Overview: Conviction for racketeering conspiracy was improper where indictment failed to fairly comprehend loan and introduction of evidence concerning loan impermissibly broadened charges that resulted in constructive amendment of indictment.

... charges resulting in constructive amendment of the indictment. Reversed and remanded. Judd Burstein, New York, New York (Jay Goldberg, New York, New York, of Counsel), for Appellant. ...

47. United States v. Myerson

United States District Court for the Southern District of New York | Aug 30, 1988 | 1988 U.S. Dist. LEXIS 9543

Overview: Where Government admitted that an attorney was not a participant in any criminal activity, a federal district court would not exercise an exception to attorney-client privilege to require attorney testify against his client in a criminal proceeding.

Jay Goldberg, Esq., New York, New York, Of Counsel: Judd Burstein, Esq., For the Defendant Carl A. Capasso, For the Defendant...

48. A United States v. Myerson

United States District Court for the Southern District of New York | Jul 06, 1988 | 689 F. Supp. 312

Overview: Defendant one's motion to suppress documents brought in by her daughter was denied, except as to financial records, because Fourth Amendment did not apply to documents brought in by person not acting as government agent who conducted private search.

... Counsel: Michael S. Feldberg , Esq. For Defendant Carl A. Capasso: Jay Goldberg, New York , New York , of Counsel: Judd Burstein, New York

49. A United States v. Myerson

United States District Court for the Southern District of New York | Jun 21, 1988 | 1988 U.S. Dist. LEXIS 5688

Overview: Three defendants were not entitled to dismissal of a count of mail fraud in an indictment against them because the reduction of temporary child support payments in divorce proceedings constituted the deprivation of property.

... Jeremy Gutman , Esq. Jay Goldberg, Esq. New York , New York , For Defendant Carl A. Capasso Of Counsel: Judd Burstein , Esq. New York...

50. A United States v. Myerson

United States District Court for the Southern District of New York | Feb 01, 1988 | 1988 U.S. Dist. LEXIS 2066

Overview: On the assumption that a court's order banning communication with press regarding judge's recusal was misunderstood based on lawyers' violations, court clarified its scope and made clear that strict sanctions would be imposed for further violations.

... Esq., Jeremy Gutman , Esq. For the Defendant Carl A. Capasso: Jay Goldberg, Esq., New York, New York , Of Counsel: Judd Burstein, Esq....

51. A United States v. Myerson

United States District Court for the Southern District of New York | Jan 21, 1988 | 1988 U.S. Dist. LEXIS 532

Overview: In a dispute over leaks from the Grand Jury, the district court ordered that affidavits for the most part be unsealed because there was nothing in them damaging to the government.

... Jeremy Gutman, Esq. For the Defendant Bess Myerson. Jay Goldberg, Esq., Of Counsel: Judd Burstein, Esq. For the Defendant Carl A. Capasso. Shea & Gould ...

52. A United States v. Meyerson

United States District Court for the Southern District of New York | Jan 14, 1988 | 677 F. Supp. 1309

Overview: A trial judge was not required to recuse himself after two brief encounters with a defendant many years past, but the trial judge nonetheless voluntarily recused himself because he could no longer remain impartial toward the prosecutor.

... Myerson, of Counsel, Frederick P. Hafetz, Esq., Jeremy Gutman , Esq. Jay Goldberg, Esq., Attorney for Carl A. Capasso, of Counsel, Judd Burstein , Esq. Shea & Gould , Attorneys for Hortense W. Gabel, ...

53. • In re United States

United States Court of Appeals for the Second Circuit | Dec 01, 1987 | 834 F.2d 283

Overview: Writ of mandamus was issued to vacate a discovery order for the government to produce oral statements of codefendants and coconspirators, if they were memorialized in writing, that the government planned to use at trial as it violated the Jencks Act.

... Special Attorneys, John F. De Pue, Department of Justice, for Petitioner. Jay Goldberg, Attorney Pro Forma, (Judd Burstein , of Counsel), for Respondent. Van Graafeiland, Meskill and Cardamone , ...

54. <u>A United States v. Gallo</u>

United States District Court for the Eastern District of New York | Aug 28, 1987 | 668 F. Supp. 736

Overview: Where an indictment under RICO was complex and involved multiple counts and multiple defendants, a motion for a severance was granted to minor defendants who would have been prejudiced by the volume of evidence against the main RICO defendants.

... Gustave H. Newman , Esq., for Defendant James Failla. Jay Goldberg, Esq., Judd Burstein , Esq., of counsel, for Defendant Joseph Zingaro. Louis R. Rosenthal ...

55. United States v. Gallo

United States District Court for the Eastern District of New York | Feb 19, 1987 | 654 F. Supp. 463

Overview: Defendants, who were indicted for alleged RICO violations, were entitled to pre-trial discovery of statements by co-conspirators under an exception to the Jencks Act when the statements were to be introduced as defendants' own.

... E. Grover, Esq. and Laura A. Ward, Esq., for Plaintiff. Jay Goldberg, Esq. and Judd Burstein, Esq., for Defendant Joseph Zingaro. (All Defendants join in this ...

United States District Court for the Southern District of New York | Sep 30, 1986 | 646 F. Supp. 1289

Overview: In a case filed under RICO civil penalties section, government's motion for appointment of receiver pendente lite was granted where misuse of restaurant funds was established at criminal trial; government established likelihood of success on merits.

... Hoffman, Pollok & Gasthalter, Esqs., for Defendant Alfred Ianniello, by: Judd Burstein, Esq., Jay Goldberg, P.C., for Defendant Matthew Ianniello, Michael Berger, Esq., of ...

57. United States v. Ianniello

United States District Court for the Southern District of New York | Oct 29, 1985 | 621 F. Supp. 1455

Overview: In a RICO prosecution, ample evidence supported finding of probable cause for issuance of a surveillance order where government showed that alternative investigative techniques were not available, on grounds of both ineffectiveness and dangerousness.

- ... United States Attorneys, of counsel, for the United States of America. Jay Goldberg , Esq., New York, New York , for Matthew Ianniello. Al ...
- ... L. Shargel, Esq., New York, New York , for Robert Ianniello. Judd Burstein , Esq., Anne Feigus , Esq., Roger Parloff , Esq., Mark ...